

# Michigan Register

Issue No. 24— 2004 (Published January 15, 2005)



## GRAPHIC IMAGES IN THE MICHIGAN REGISTER

### COVER DRAWING

#### *Michigan State Capitol:*

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

### PAGE GRAPHICS

#### *Capitol Dome:*

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

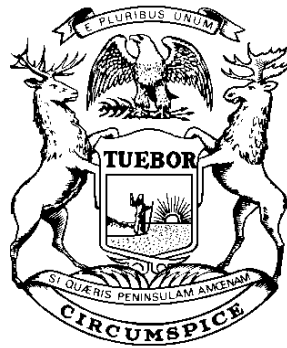
#### *East Elevation of the Michigan State Capitol:*

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

Published pursuant to § 24.208 of  
The Michigan Compiled Laws



Issue No. 24 — 2004

(This issue, published January 15, 2005, contains  
documents filed from December 15, 2004 to January 1, 2005)

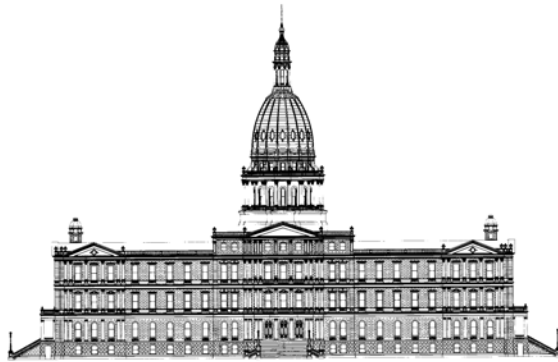
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**Brian D. Devlin**, Director, Office of Regulatory Reform; **Deidre O'Berry**, Administrative Assistant for Operations and Publications.

**Jennifer M. Granholm, Governor**



**John D. Cherry Jr., Lieutenant Governor**

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## PREFACE

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### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
  - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
  - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
  - (d) Proposed administrative rules.
  - (e) Notices of public hearings on proposed administrative rules.
  - (f) Administrative rules filed with the secretary of state.
  - (g) Emergency rules filed with the secretary of state.
  - (h) Notice of proposed and adopted agency guidelines.
  - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
  - (j) Attorney general opinions.
  - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
  - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
  - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
  - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

#### **CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

#### **CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Department of Management and Budget, Mason Building - Second Floor, 530 W. Allegan, Lansing, MI 48933

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Office of Regulatory Reform, Department of Management and Budget, Mason Building - Second Floor, 530 W. Allegan, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 241-1679.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: [www.state.mi.us/orr](http://www.state.mi.us/orr)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director  
Office of Regulatory Reform



## 2005 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2005	February 1, 2005
2	February 1, 2005	February 15, 2005
3	February 15, 2005	March 1, 2005
4	March 1, 2005	March 15, 2005
5	March 15, 2005	April 1, 2005
6	April 1, 2005	April 15, 2005
7	April 15, 2005	May 1, 2005
8	May 1, 2005	May 15, 2005
9	May 15, 2005	June 1, 2005
10	June 1, 2005	June 15, 2005
11	June 15, 2005	July 1, 2005
12	July 1, 2005	July 15, 2005
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18	October 1, 2005	October 15, 2005
19	October 15, 2005	November 1, 2005
20	November 1, 2005	November 15, 2005
21	November 15, 2005	December 1, 2005
22	December 1, 2005	December 15, 2005
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**ADMINISTRATIVE RULES**  
**FILED WITH THE SECRETARY OF STATE**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

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**ADMINISTRATIVE RULES**

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**ORR # 2002-028**

**DEPARTMENT OF NATURAL RESOURCES**

**LAW ENFORCEMENT DIVISION**

**STATE UNIFORM WATERWAY MARKING SYSTEM**

Filed with the Secretary of State on December 20, 2004.

This rule takes effect January 1, 2005.

(By authority conferred on the department of natural resources by section 80160 of 1994 PA 451, MCL 324.80160)

R 281.1113 of the Michigan Administrative Code is amended as follows:

**R 281.1113 Buoys marking fish nets or other fishing devices.**

Rule 13. (1) Buoys marking fish nets or other fishing devices may be placed in waters of the state without a permit.

(2) Buoys marking state licensed commercial fishing nets, hook lines, or any other continuous fishing devices shall meet all of the following requirements:

(a) Be a spar buoy with a staff not less than 1 inch in diameter.

(b) Have an exposure of not less than 5 1/2 feet above the water surface. However, in waters less than 6 feet deep, exposure above the water surface shall be 3 to 5 1/2 feet.

(c) Display 1 or more flags that meet both of the following requirements:

(i) Each flag shall be orange in color, not less than 12 inches by 12 inches and shall be securely affixed to the buoy.

(ii) The uppermost flag shall be attached to the top of the spar and any required additional flag shall be attached immediately below the uppermost flag.

(d) As required by subrules (6) and (8) of this rule, have affixed a license number or other identification required by section 47322 of 1994 PA 451, MCL 324.47322. The license number shall be displayed in plain, legible letters or numbers, or both, that are at least 3 inches in height and that are of a color that contrasts to the bowl to which they are affixed.

(e) Be maintained in good and serviceable condition.

(f) Float in an upright position.

(g) When required by subrules (4) and (5) of this rule, be constructed of metal or be fitted with a metal radar reflector consisting of metallic plates or cylinders not less than 6 inches in height and capable of radar detection from any direction.

(3) Floats marking state licensed commercial fishing nets, hook lines, or any other continuous fishing devices shall meet all of the following requirements:

(a) Be orange in color and float on the surface.

(b) Except as otherwise specified in subrules (4) and (6), a float shall be at least 6 inches in diameter and 14 inches in length. As an alternative, a gang or group of smaller floats bound together and having a combined median longitudinal cross-section surface area equal to or greater than a 6 inch by 14 inch float may be used.

(c) Be maintained in good and serviceable condition.

(4) Impoundment nets, other than pound nets, shall be marked with the following combination of spar buoys and floats:

A float shall be attached to the king anchor.

- (b) A spar buoy displaying 2 orange flags and having a metal radar reflector affixed to the top of the staff shall be attached to the lifting buoy.
- (c) A spar buoy displaying an orange flag shall be attached to the lead anchor, however, reverse trap nets sharing a common lead do not require a spar buoy on the common lead.
- (d) A float shall be attached to each wing anchor.
- (e) Any portion of an impoundment net, including wings or lead, set in such a manner that there is 15 feet of water or less above the top of the net, wing, or lead shall display at least 1 of the following:
  - (i) A float spaced not more than every 300 feet along the entire length of the net, wing, or lead.
  - (ii) A float that is at least 1 ½ inches in diameter and 4 inches in length spaced every 12 feet along the corkline of the net, wing, or lead.
- (5) A pound net shall be marked with a spar buoy that is attached to the lifting buoy. The spar buoy shall display 2 orange flags, and be constructed of metal or be fitted with a metal radar reflector affixed to the top of the staff and consisting of metallic plates or cylinders not less than 6 inches in height and capable of radar detection from any direction.
- (6) Gill nets shall be marked with the following combination of spar buoys and floats:
  - (a) A spar buoy shall be attached to each end of the gill net or to each end of a gang of gill nets and shall display an orange flag. It shall be constructed of metal or be fitted with a metal radar reflector affixed to the top of the staff and consisting of metallic plates or cylinders not less than 6 inches in height and capable of radar detection from any direction.
  - (b) In addition to the requirements in subdivision (a) of this subrule, any portion of a gill net set in water 15 feet deep or less shall have at least 1 of the following:
    - (i) A float spaced not more than every 300 feet along the entire length of the net.
    - (ii) A float that is at least 1 ½ inches in diameter and 4 inches in length spaced every 12 feet along the corkline.
- (7) Hook lines shall be marked by a spar buoy displaying an orange flag attached to each end of the hook line or each end of a gang of hook lines.
- (8) A fisher setting or using nets, hook lines, or other continuous fishing devices shall display their license number upon the buoy bowls as follows:
  - (a) On all gill net spar buoy bowls.
  - (b) On all hook line spar buoy bowls.
  - (c) On trap nets and other impoundment fishing devices, excluding pound nets, on the bowl of the lifting buoy.
  - (d) On pound nets, on the middle stake of the non-lead side of the pound net.
- (9) When any net, hook line, or other continuous fishing device is set under the ice, its location shall be marked by a stake extending not less than 4 feet above the surface of the ice at each end of the net, hook line, or continuous fishing device. The license number of the fisher setting or using the net, hook line, or other continuous fishing device shall be displayed on each stake in plain, legible figures at least 3 inches in height.
- (10) Floats and buoys required by this rule shall be attached with the minimum amount of line necessary to allow the float or buoy to remain visible on the water's surface. Any extra line, including lines from buoys or other equipment necessary for the operation of the fishing device, shall be weighted in a manner that causes the extra line to be submerged vertically below any buoy, float, or other equipment.

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**ADMINISTRATIVE RULES**

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**ORR # 2003-007**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**WASTE AND HAZARDOUS MATERIALS DIVISION**

**HAZARDOUS WASTE MANAGEMENT**

Filed with the Secretary of State on December 8, 2004  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director and the department of environmental quality by sections 11115a, 11118, 11123, 11127, 11128, 11130, 11132, 11137, 11140, 11141, and 11145 of 1994 PA 451, and Executive Reorganization Order No. 1995-16, MCL 324.11115a, 324.11118, 324.11123, 324.11127, 324.11128, 324.11130, 324.11132, 324.11137, 324.11140, 324.11141, 324.11145, and 324.99903)

R 299.9101, R 299.9102, R 299.9103, R 299.9105, R 299.9106, R 299.9107, R 299.9109, R 299.9202, R 299.9203, R 299.9204, R 299.9205, R 299.9212, R 299.9220, R 299.9222, R 299.9226, R 299.9228, R 299.9303, R 299.9304, R 299.9306, R 299.9307, R 299.9309, R 299.9310, R 299.9401, R 299.9402, R 299.9409, R 299.9410, R 299.9502, R 299.9504, R 299.9514, R 299.9519, R 299.9601, R 299.9607, R 299.9608, R 299.9610, R 299.9614, R 299.9619, R 299.9623, R 299.9629, R 299.9635, R 299.9703, R 299.9706, R 299.9801, R 299.9808, R 299.9809, R 299.9815, R 299.9819, R 299.11001, R 299.11002, R 299.11003, R 299.11004, R 299.11005, R 299.11006, R 299.11007, and R 299.11008 of the Michigan Administrative Code are amended, R 299.9639, R 299.9640, R 299.9822, and R 299.9823 are added to the Code, and R 299.9624, R 299.9625, and R 299.9626 of the Code are rescinded to read as follows:

**PART 1. GENERAL PROVISIONS**

**R 299.9101 Definitions; A, B.**

Rule 101. As used in these rules:

- (a) "Aboveground tank" means a device which meets the definition of "tank" in this part and which is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface bottom and can be visually inspected.
- (b) "Act" means 1994 PA 451, MCL 324.101, and known as the natural resources and environmental protection act.
- (c) "Act 138" means 1998 PA 138, MCL 29.471 to 29.480, and known as the hazardous materials transportation act.
- (d) "Act 181" means 1963 PA 181, MCL 480.14, and known as the motor carrier safety act.
- (e) "Act 207" means 1941 PA 207, MCL 29.1, and known as the fire prevention code.
- (f) "Act 218" means sections 3101 and 3102 of 1956 PA 218, MCL 500.3101 and 500.3102, and known as the insurance code of 1956.
- (g) "Act 236" means 1961 PA 236, MCL 600.101, and known as the revised judiciary act.
- "Act 300" means 1949 PA 300, MCL 257.1, and known as the Michigan vehicle code.
- (i) "Act 306" means 1969 PA 306, MCL 24.201, and known as the administrative procedures act of 1969.

- (j) "Act 368" means 1978 PA 368, MCL 333.1101, and known as the public health code.
- (k) "Act 399" means 1976 PA 399, MCL 325.1001, and known as the safe drinking water act.
- (l) "Active life" means the period from the initial receipt of hazardous waste at a facility until the director receives certification of final closure.
- (m) "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being, or have been, conducted after November 19, 1980, and which is not a closed portion. (See also "closed portion" and "inactive portion")
- (n) "Active range" means a military range that is currently in service and being regularly used for range activities.
- (o) "Administrator" means the administrator of the EPA or the administrator's designee.
- (p) "Agent," when used in conjunction with the term United States importer, means an employee of the United States importer or a legally recognized representative of the United States importer who has been authorized in a lawfully executed written document, such as a power of attorney, to act on the United States importer's behalf.
- (q) "Agreement state" means a state that has entered into an agreement with the NRC under subsection 274b of the atomic energy act of 1954, as amended, to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.
- (r) "Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.
- (s) "Aquifer" means a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of groundwater to wells or springs.
- (t) "Associated organic chemical manufacturing facility" means a facility that meets all of the following requirements:
  - (i) The primary SIC code at the facility is 2869 but operations may also include SIC codes 2821, 2822, and 2865.
  - (ii) The facility is physically co-located with a petroleum refinery.
  - (iii) The petroleum refinery to which the oil that is being recycled is returned also provides hydrocarbon feedstocks to the facility.
- (u) "ASTM" means the American society for testing and materials.
- (v) "Authorized representative" means the person who is responsible for the overall operation of a facility or an operational unit, such as the plant manager, superintendent, or person who has equivalent responsibilities.
- (w) "Battery" means a device which consists of 1 or more electrically connected electrochemical cells and which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system that consists of an anode, a cathode, an electrolyte, and any such connections that are needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.
- (x) "Boiler" means an enclosed device which uses controlled flame combustion and which is either determined by the director to be a boiler based on the standards and procedures set forth in 40 C.F.R. §§260.32 and 260.33, which are adopted by reference in R 299.11003, or which is in compliance with all of the following characteristics:

The unit shall have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases.

  - (ii) The unit's combustion chamber and primary energy recovery section or sections shall be of an integral design. To be of an integral design, the combustion chamber and the primary energy recovery section or sections, such as waterwalls and superheaters, shall be physically formed into 1 manufactured



or assembled unit. A unit in which the combustion chamber and the primary energy recovery section or sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment, such as economizers or air preheaters, need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of an integral design:

(A) Process heaters or units that transfer energy directly to a process stream.

(B) Fluidized bed combustion units.

(iii) While in operation, the unit shall maintain a thermal energy recovery efficiency of not less than 60% calculated in terms of the recovered energy compared with the thermal value of the fuel.

(iv) The unit shall export and utilize not less than 75% of the recovered energy calculated on an annual basis. In this calculation, credit shall not be given for recovered heat that is used internally in the same unit, such as for the preheating of fuel or combustion air and for the driving of induced or forced draft fans or feedwater pumps.

(y) "Burner" means an owner or operator of a facility that burns either used oil fuel or hazardous waste fuel.

(z) "By-product" means a material which is not one of the primary products of a production process and which is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a coproduct which is produced for the general public's use and which is ordinarily used in the form in which it is produced by the process.

#### **R 299.9102 Definitions; C, D.**

Rule 102. As used in these rules:

(a) "Carbon regeneration unit" means an enclosed thermal treatment device used to regenerate spent activated carbon.

(b) "CERCLA" means the comprehensive environmental response compensation and liability act of 1980, as amended, 42 U.S.C. §9601 et seq.

(c) "Certification" means a statement of professional opinion based upon knowledge or belief.

(d) "Certified delivery" means certified mail with return receipt requested, or equivalent courier service or other means, that provides the sender with a receipt confirming delivery.

(e) "C.F.R." means the Code of Federal Regulations.

(f) "Chemical agents and munitions" means chemical agents and munitions as defined in 50 U.S.C. section 1521(j)(1).

(g) "Closed portion" means the portion of a facility that an owner or operator has closed pursuant to the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

(h) "Combustion zone" means the portion of the internal capacity of an incinerator where the gas temperatures of the materials being burned are within 100 degrees Celsius of the specified operating temperature.

(i) "Commingling" means the transfer of hazardous wastes between containers or vehicles by a transporter during the course of transportation that results in the waste being mixed or repackaged.

(j) "Component" means either the tank or the ancillary equipment of a tank system.

(k) "Confined aquifer" means an aquifer that is bounded above and below by impermeable beds or by beds that have a distinctly lower permeability than that of the aquifer itself. It is an aquifer that contains confined groundwater.

(l) "Consignee" means the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.

- (m) "Consolidation" means the transfer of containers of hazardous wastes between transport vehicles by a transporter during the course of transportation without the containers holding the wastes being opened and without the wastes being repackaged.
- (n) "Constituent" or "hazardous waste constituent" means a constituent that caused the administrator to list the hazardous waste in 40 C.F.R. part 261, subpart D, a constituent that is listed in table 1 of 40 C.F.R. §261.24, or a constituent that is listed in table 201, 202, or 205 of these rules.
- (o) "Construction permit" means a permit which is issued pursuant to part 111 of the act and which is for the construction of a treatment, storage, or disposal facility.
- (p) "Consumer electronics" means devices operated by electricity that contain circuit boards, many of which are commonly found in homes and offices. Examples of consumer electronics include computers, telephones, and printers.
- (q) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
- (r) "Contingency plan" means a document that sets out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.
- (s) "Corrective action management unit" or "CAMU" means an area within a facility that is used only for managing remediation waste, in the case of grandfathered corrective action management units, or corrective action management unit-eligible waste, as further explained in R 299.9635(2) and (3), in implementing corrective action or cleanup at the facility.
- (t) "Corrective action management unit-eligible waste" or "CAMU-eligible waste" means all wastes and hazardous wastes and all media, including groundwater, surface water, soils, sediments, and debris, that are managed for implementing cleanup. As-generated wastes from ongoing industrial operations at a site are not CAMU-eligible. Notwithstanding this subrule and where appropriate, as-generated non-hazardous waste may be placed in a corrective action management unit if the waste is being used to facilitate treatment or the performance of the corrective action management unit. Wastes that would otherwise meet the definition of a CAMU-eligible waste are not CAMU-eligible wastes if either of the following apply:
- (i) If the wastes are hazardous wastes found during a cleanup in intact or substantially intact containers, tanks, or other non-land-based units found above ground, unless the wastes are first placed in the tanks, containers or non-land-based units as part of the cleanup, or the containers or tanks are excavated during the course of the cleanup.
- (ii) If the director, or the director's designee, uses the authority in R 299.9635 to prohibit the wastes from management in a corrective action management unit.
- "Corrosion expert" means a person who, by reason of his or her knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. The person shall be certified as being qualified by the national association of corrosion engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.
- (v) "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has received a permit or has interim status pursuant to title II of the solid waste disposal act; which has a license, permit, or interim status from a state that is authorized pursuant to section 3006 of title II of the solid waste disposal act, which, if located in Michigan, has an operating license that is issued pursuant to part 111 of the act, has a legally binding agreement with the director that authorizes operation, or is subject to the requirements of section 23(4) and (5) of part 111 of the act; or which is regulated pursuant to R 299.9206(1)(c) or R 299.9803; and which has been designated on the manifest by the generator

pursuant to R 299.9304. If the waste is destined for a facility in an authorized state that has not yet obtained authorization to regulate the particular waste as hazardous, then the designated facility shall be a facility that is allowed by the receiving state to accept the waste.

(w) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except for the management activities described in 40 C.F.R. §§273.13(a) and (c) and 273.33(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

(x) "Dike" means an embankment or ridge which consists of either natural or man-made materials and which is used to prevent the movement of liquids, sludges, solids, or other materials.

(y) "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

(z) "Director" means the director of the department of environmental quality.

(aa) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

(bb) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on land or water in such manner that the hazardous waste or a constituent of the hazardous waste might enter the environment, be emitted into the air, or discharged into water, including groundwater.

(cc) "Disposal facility" means a facility or a part of a facility at which hazardous waste, as defined by these rules, is intentionally placed into or on any land or water and at which hazardous waste will remain after closure. The term "disposal facility" does not include a corrective action management unit into which remediation wastes are placed.

(dd) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(ee) "DOD" means the United States department of defense.

(ff) "DOT" means the United States department of transportation.

(gg) "Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

(hh) "Drip pad" means an engineered structure which consists of a curbed, free-draining base, which is constructed of nonearthen materials, and which is designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

### **R 299.9103 Definitions; E, F.**

Rule 103. As used in these rules:

(a) "Electric lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum. Examples of common electric lamps include incandescent, fluorescent, high intensity discharge, sodium vapor, mercury vapor, and neon lamps.

"Element" means any part of a unit or any group of parts of a unit that are assembled to perform a specific function, for example, a pump seal, pump, kiln liner, or kiln thermocouple.

(c) "Elementary neutralization unit" means a device that is in compliance with both of the following requirements:

(i) Is used for neutralizing wastes that are hazardous wastes only because they exhibit the corrosivity characteristic defined in R 299.9212 or are listed in R 299.9213 or R 299.9214 only because they exhibit the corrosivity characteristic.

(ii) Is in compliance with the definition of "tank," "tank system," "container," "transport vehicle," or "vessel" as specified in this part.

- (d) "Eligible NARM waste" means NARM waste that is eligible for the transportation and disposal conditional exemption outlined in R 299.9823 of the rules. It is a NARM waste that contains hazardous waste, meets the waste acceptance criteria of, and is allowed by state NARM regulations to be disposed of at a low-level radioactive waste disposal facility licensed pursuant to 10 C.F.R. part 61 or NRC agreement state equivalent regulations.
- (e) "Enforceable document" means an order, a plan, or other document issued by the department either in place of an operating license for the postclosure period, or as a source of alternative requirements for hazardous waste management units, as provided under these rules. An enforceable document may include, but is not limited to, a corrective action order under part 111 of the act, a CERCLA remedy, or a closure or postclosure plan. An enforceable document shall be issued under an authority that has available all of the following remedies:
- (i) The authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of the requirements of these documents.
  - (ii) The authority to compel compliance with the requirements for corrective action or other emergency response measures deemed necessary to protect human health and the environment.
  - (iii) The authority to access or sue to recover in court civil penalties, including fines, for violations of the requirements of these documents.
- (f) "EPA" means the United States environmental protection agency.
- (g) "EPA acknowledgment of consent" means the cable that is sent to EPA from the United States embassy in a receiving country which acknowledges the written consent of the receiving country to accept the hazardous waste and which describes the terms and conditions of the receiving country's consent to the shipment.
- (h) "EPA region" means the states and territories found in any of the 10 EPA regions identified in 40 C.F.R. §260.10.
- (i) "Equivalent method" means any testing or analytical method that is approved by the director pursuant to R 299.9215.
- (j) "Excluded scrap metal" means processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.
- (k) "Exempted radioactive waste" means a waste that meets the eligibility criteria and all of the conditions in R 299.9822, or meets the eligibility criteria and complies with all of the conditions in R 299.9823. Such waste is conditionally exempted from the regulatory definition of hazardous waste in R 299.9203.
- (l) "Existing facility" means a treatment, storage, or disposal facility that either received all necessary state-issued environmental construction or operating permits before January 1, 1980, or for which approval of construction has been received from the air pollution control commission before November 19, 1980. Existing facilities also include those treatment, storage, or disposal facilities which were operating before January 1, 1980, under existing authority and which did not require state-issued environmental construction or operating permits.
- (m) "Existing portion" means the land surface area of an existing waste management unit previously authorized and included in the original part A permit application to the EPA on which wastes have been placed before the issuance of a permit pursuant to RCRA or an operating license pursuant to these rules, whichever is sooner.
- (n) "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced, on or before July 14, 1986. Installation shall be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either of the following provisions applies:

- (i) A continuous on-site physical construction or installation program has begun.
- (ii) The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the site of installation of the tank system to be completed within a reasonable time.
- (o) "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance, damaged or deteriorated explosives or munitions, an improvised explosive device, other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency specialist to control, mitigate, or eliminate the threat.
- (p) "Explosives or munitions emergency response" means all immediate response activities by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance shall not terminate the explosives or munitions emergency. Explosives and munitions emergency responses may occur on either public or private lands and are not limited to responses at RCRA facilities.
- (q) "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include DOD emergency explosive ordnance disposal, technical escort unit, and DOD-certified civilian or contractor personnel; and other federal, state, or local government or civilian personnel similarly trained in explosives or munitions emergency responses.
- (r) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units, such as 1 or more landfills or surface impoundments, or combinations of operational units. For the purpose of implementing corrective action under part 111 of the act, "facility" shall include all contiguous property under the control of the owner or operator. Notwithstanding the definition of the term "facility" as it relates to corrective action, a remediation waste management site is not a facility that is subject to corrective action under R 299.9629, but is subject to the corrective action requirements of part 111 of the act and these rules if the site is located within such a facility.
- (s) "Facility mailing list" means the mailing list for a facility that is maintained by the department pursuant to 40 C.F.R. §124.10I(1)(ix).
- (t) "Fault" means a fracture along which rocks on 1 side have been displaced with respect to rocks on the other side.
- (u) "Federal agency" means any department, agency, or other instrumentality of the federal government; any independent agency or establishment of the federal government, including any government corporation; and the United States government printing office.
- (v) "Federal clean air act" means Public Law 95-95, 42 U.S.C. §1857 et seq.
- (w) "Federal clean water act" means Public Law 92-500, 33 U.S.C. §1251 et seq.
- (x) "Federal hazardous materials transportation act" means Public Law 93-633, 49 U.S.C. §1801 et seq.
- (y) "Federal insecticide, fungicide, and rodenticide act" means 7 U.S.C. §§136 to 136y.
- (yz) "Federal resource conservation and recovery act" means Public Law 94-580, 42 U.S.C. §6901 et seq.

- (aa) "Federal safe drinking water act" means Public Law 95-190, 42 U.S.C. §300f et seq.
- (bb) "Final closure" means the closure of all hazardous waste management units at the facility pursuant to all applicable closure requirements so that hazardous waste management activities pursuant to parts 5 and 6 of these rules are no longer conducted at the facility, unless the activities are subject to R 299.9306.
- (cc) "Flood" means a flood that has a 1% chance of being equalled or exceeded in any given year.
- (dd) "Floodplain" means any land area that is subject to a 1% or greater chance of flooding in any given year from any source.
- (ee) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.
- (ff) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained in the tank or surface impoundment dike.
- (gg) "Free liquids" means liquids that readily separate from the solid portion of a waste at ambient temperature and pressure.
- (hh) "Fugitive emissions" means air contaminant emissions that emanate from non-point emission sources or sources other than stacks, ducts, or vents.
- (ii) "Functionally equivalent element" means an element which performs the same function or measurement and which meets or exceeds the performance specifications of another element.

**R 299.9105 Definitions; L to N.**

Rule 105. As used in these rules:

(a) "Land disposal" means placement in or on the land and includes, but is not limited to, placement in any of the following:

- (i) A landfill.
- (ii) A surface impoundment.
- (iii) A waste pile.
- (iv) An injection well.
- (v) A land treatment facility.
- (vi) A salt dome formation.
- (vii) A salt bed formation.
- (viii) An underground mine or cave.
- (ix) A concrete vault or bunker intended for disposal purposes.

The term also means placement in or on the land by means of open detonation and open burning where the residues continue to exhibit 1 or more of the characteristics of hazardous waste. The term "land disposal" does not include ocean disposal.

(b) "Land disposal restriction treatment standards" means the treatment standards under 40 C.F.R. part 268 that a hazardous waste shall meet.

(c) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land. The term does not include any of the following:

- (i) A pile.
- (ii) A land treatment facility.
- (iii) A surface impoundment.
- (iv) An underground injection well.
- (v) A salt dome formation.
- (vi) A salt bed formation.
- (vii) An underground mine or cave.
- (viii) A corrective action management unit.

- (d) "Landfill cell" means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.
- (e) "Land treatment facility" means a treatment facility or part of a treatment facility at which hazardous waste is applied onto or incorporated into the soil surface. Such facilities are disposal facilities if the waste will remain after closure.
- (f) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.
- (g) "Leak detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system shall employ operational controls, such as daily visual inspections for releases into the secondary containment system or aboveground tanks, or consist of an interstitial monitoring device designed to continuously and automatically detect the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.
- (h) "Lift" means a layer of placed materials, including a layer of compacted clay in a landfill liner or cap, or a layer of waste in a landfill.
- (i) "Liner" means a continuous layer of natural or man-made materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.
- (j) "Low-level mixed waste" or "LLMW" means a waste that contains both LLRW and hazardous waste.
- (k) "Low-level radioactive waste" or "LLRW" means a radioactive waste which contains source, special nuclear, or byproduct materials, and which is not classified high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct materials as defined in section 11.e(2) of the atomic energy act of 1954, as amended.
- (l) "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.
- (m) "Manifest" means the shipping document which is originated and signed by the generator and which contains the information required by R 299.9304.
- (n) "Manifest document number" means the site 2-digit identification number assigned to the generator and a unique 5-digit document number assigned to the manifest by the generator for recording and reporting purposes.
- (o) "Method of treatment or disposal" means 1 of the major categories of treatment or disposal used for hazardous waste, including any of the following:
  - (i) Landfill.
  - (ii) Land treatment.
  - (iii) Thermal treatment.
  - (iv) Chemical treatment.
  - (v) Physical treatment.
  - (vi) Biological treatment.
- (p) "Military" means the DOD, the armed services, coast guard, national guard, department of energy or other parties under contract or acting as agent for any of the parties, who handle military munitions.
- (q) "Military munitions" means all ammunition products and components produced or used by or for the DOD or the United States armed services for national defense and security, including military munitions under the control of the DOD, the United States coast guard, the United States department of energy, and national guard personnel. The term military munitions includes any of the following: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control

agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunitions, small arms ammunitions, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolitions charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term military munitions does include nonnuclear components of nuclear devices, managed under the department of energy's nuclear weapons program after all required sanitization operations under the atomic energy act of 1954, as amended, have been compiled.

(r) "Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

(s) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit that is removed to gain access to the deposit and is then used for reclamation of a surface mine.

(t) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of. The term does not include any of the following:

(i) A container.

(ii) A tank.

(iii) A surface impoundment.

(iv) A pile.

(v) A land treatment unit.

(vi) A landfill.

(vii) An incinerator.

(viii) A boiler.

(ix) An industrial furnace.

(x) An underground injection well with appropriate technical standards pursuant to 40 C.F.R. part 146.

(xi) A unit that is eligible for a temporary operating license for research pursuant to R 299.9501.

(xii) A corrective action management unit.

(xiii) A staging pile.

(u) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(v) "Mixed waste" means a waste that contains both hazardous waste and source, special nuclear, or byproduct material subject to the atomic energy act of 1954, as amended.

(w) "Naturally occurring and/or accelerator-produced radioactive material" or "NARM" means radioactive material that is regulated by a state under state law, or by the United States department of energy, as authorized by the atomic energy act of 1954, as amended, under department of energy orders, and meets either of the following requirements:

(i) Is radioactive material that is naturally occurring and is not source, special nuclear, or byproduct material as defined by the atomic energy act of 1954, as amended.

(ii) Is radioactive material that is produced by an accelerator.

(x) "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986. For purposes of 40 C.F.R. §§264.193(g)(2) and 265.193(g)(2), a new tank system is one for which construction commences after July 14, 1986.

(y) "NFPA" means the national fire protection association.

(z) "NRC" means the United States nuclear regulatory commission.



(aa) "NRC license" or "NRC agreement state license" means a license issued by the NRC, or NRC agreement state, to users that manage radionuclides regulated by the NRC, or NRC agreement states, under the authority of the atomic energy act of 1954, as amended.

**R 299.9106 Definitions; O to Q.**

Rule 106. As used in these rules:

(a) "On-ground tank" means a device which satisfies the definition of "tank" in R 299.9108(a) and which is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

(b) "On-site" means on the same or geographically contiguous property which may be divided by a public or private right-of-way if the entrance and exit between the pieces of property are at a crossroads intersection and access is by crossing, rather than going along, the right-of-way. Noncontiguous pieces of property owned by the same person but connected by a right of way which the owner controls and to which the public does not have access is also considered on-site property.

(c) "On-site treatment facility" means a facility which is for the treatment of hazardous waste in tanks or containers, which is located on the site of generation of the wastes, and which does not do either of the following:

(i) Include equipment for incineration.

(ii) Accept hazardous wastes from other generators.

(d) "Open burning" means the combustion of any material without any of the following characteristics:

(i) Control of combustion air to maintain adequate temperature for efficient combustion.

(ii) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion.

(iii) Control of the emission of the gaseous combustion products. (See also "incineration" and "thermal treatment.")

(e) "Operating license" means a license to operate a treatment, storage, or disposal facility pursuant to the authority of part 111 of the act.

(f) "Operator" means the person responsible for the overall operation of a facility.

(g) "Owner" means the person who owns a treatment, storage, or disposal facility, or part of such a facility, including the titleholder of the land on which the facility is located.

(h) "Partial closure" means the closure of a hazardous waste management unit pursuant to the applicable closure requirements of 40 C.F.R. part 265 and part 6 of these rules at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank, including its associated piping and underlying containment systems, a landfill cell, surface impoundment, waste pile, or other hazardous waste management units while other units of the same facility continue to operate.

(i) "Person" means any of the following entities:

(i) An individual.

(ii) A partnership.

(iii) The state.

(iv) A trust.

(v) A firm.

(vi) A joint stock company.

(vii) A federal agency.

(viii) A corporation, including a government corporation.

(ix) An association.

(x) A municipality.

- (xi) A commission.
- (xii) A political subdivision of a state.
- (xiii) Any interstate body.
- (xiv) Any other public body created by or pursuant to state law.
- (j) "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility and whose actions or failure to act might result in noncompliance with part 111 of the act or these rules.
- (k) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that meets any of the following criteria:
  - (i) Is a new animal drug under section 201(w) of the federal food, drug, and cosmetic act of 1938, as amended, 21 U.S.C. §301 et seq.
  - (ii) Is an animal drug that has been determined by regulation of the secretary of health and human services not to be a new animal drug.
  - (iii) Is an animal feed under section 201(x) of the federal food, drug, and cosmetic act of 1938, as amended, 21 U.S.C. §301 et seq. that bears or contains any substances identified in paragraph (i) or (ii) of this subdivision.
- (l) "Petrochemical recovered oil" means oil that has been reclaimed from secondary materials from normal organic chemical manufacturing processes and oil recovered from organic chemical manufacturing processes.
- (m) "Petroleum refining facility" means an establishment that is primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes.
- (n) "Pharmaceutical" means a drug intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or animals.
- (o) "Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.
- (p) "Plasma arc incinerator" means any enclosed device which uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.
- (q) "Point source" means any discernible, confined, and discrete conveyance, including any of the following from which pollutants are or might be discharged:
  - (i) A pipe.
  - (ii) A ditch.
  - (iii) A channel.
  - (iv) A tunnel.
  - (v) A conduit.
  - (vi) A well.
  - (vii) A discrete fissure.
  - (viii) A container.
  - (ix) Rolling stock.
  - (x) A concentrated animal feeding operation.
  - (xi) A vessel or other floating craft.This term does not include return flows from irrigated agriculture.
- (r) "Primary exporter" means any person who is required to originate the manifest for a shipment of hazardous waste pursuant to R 299.9304, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

(s) "Primary monitoring parameter" means indicator parameters, for example, specific conductance, total organic carbon, or total organic halogen; hazardous waste constituents; or reaction products which provide a reliable indication of the presence of hazardous constituents in groundwater and which, when specified in a facility operating license, are subject to all of the requirements of 40 C.F.R. part 264, subpart F.

(t) "Processed scrap metal" means scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type and fines, drosses, and related materials which have been agglomerated. Shredded circuit boards being sent for recycling are not considered processed scrap and are covered under the exclusion from the definition of waste for shredded circuit boards that are being recycled in R 299.9204.

(u) "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes all of the following:

(i) Blending used oil with virgin petroleum products.

(ii) Blending used oils to meet fuel specifications.

(iii) Filtration.

(iv) Simple distillation.

(v) Chemical or physical separation.

(vi) Re-refining.

(v) "Prompt scrap metal" means scrap metal as generated by the metal working and fabrication industries. Prompt scrap metal, which is also known as "industrial" or "new" scrap metal, includes all of the following:

(i) Turnings.

(ii) Cuttings.

(iii) Punchings.

(iv) Borings.

(w) "Publicly owned treatment works", known as "POTW," means any device or system which is used in the treatment, including recycling and reclamation, of municipal sewage or industrial wastes of a liquid nature and which is owned by a "state" or "municipality," as defined by section 502(4) of the federal clean water act. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

(x) "Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completions of accredited university courses that enable that individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

#### **R 299.9107 Definitions; R, S.**

Rule 107. As used in these rules:

(a) "RCRA" means the solid waste disposal act, as amended by the resource conservation and recovery act of 1976, as amended, 42 U.S.C. §6901 et seq.

(b) "Reclamation" means either processing to recover a usable product or regeneration, such as in the recovery of lead values from spent batteries and the regeneration of spent solvents.

- (c) "Recreational property" means all lands that are predominately intended to provide outdoor recreational activities under the control and operation of a governmental agency, such as outdoor parks, preserves, campgrounds, and wildlife refuges.
- (d) "Recycle" means use, reuse, or reclamation. Material is "used" or "reused" if it is either of the following:
- (i) Employed as an ingredient in an industrial process to make a product, unless distinct components of the material are recovered as separate end products, such as when metals are recovered from metal-containing secondary materials.
  - (ii) Employed in a particular function or application as an effective substitute for a commercial product, such as spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment.
- (e) "Recyclable material" means hazardous waste that is recycled.
- (f) "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.
- (g) "Regional administrator" means the regional administrator or his or her designee for the EPA region in which the facility is located.
- (h) "Regulated unit" means a surface impoundment, waste pile, land treatment unit, or landfill that received hazardous waste after July 26, 1982.
- (i) "Remedial action plan" or "RAP" means a special form of an operating license that a facility owner or operator may obtain instead of a construction permit or operating license issued pursuant to part 5 of these rules. The RAP shall authorize the treatment, storage, or disposal of hazardous remediation waste at a remediation waste management site.
- (j) "Remediation waste" means all wastes and hazardous wastes, and all media, including groundwater, surface water, soils, and sediments, and debris, that are managed for implementing cleanup.
- (k) "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under R 299.9629, but is subject to the corrective action requirements of part 111 of the act and these rules if the site is located in such a facility.
- (l) "Representative sample" means a sample of a universe or whole that can be expected to exhibit the average properties of the universe or whole.
- (m) "Retention time" means the minimum time hazardous waste is subjected continuously to a required combustion zone temperature in an incinerator.
- (n) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.
- (o) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.
- (p) "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.
- (q) "Scrap metal" means bits and pieces of metal parts, such as bars, turnings, rods, sheets, wire, or metal pieces, which may be combined together with bolts or by soldering, such as radiators, scrap automobiles, and railroad car boxes, and which, when worn or superfluous, may be recycled.
- (r) "Secondary monitoring parameter" means ions such as calcium, sodium, magnesium, iron, chloride, sulfate, bicarbonate, and carbonate; waste constituents; reaction products; or other parameters which provide an indication of the presence of hazardous constituents in groundwater and which are not subject to the requirements of 40 C.F.R. part 264, subpart F.
- (s) "Site identification number" means the number that is assigned by the EPA or the EPA's designee to each generator, transporter, and treatment, storage, or disposal facility. If a generator, transporter, or

treatment, storage, or disposal facility manages wastes that are hazardous pursuant to these rules, but are not hazardous pursuant to RCRA, then "site identification number" shall mean an equivalent number that is assigned by the director.

(t) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(u) "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 BTU per pound of sludge treated on a wet-weight basis.

(v) "Small quantity generator" means a generator who generates less than 1,000 kilograms of hazardous waste in a calendar month.

(w) "Sole source aquifer" means an aquifer designated pursuant to section 1424(e) of the federal safe drinking water act.

(x) "Sorb" means to adsorb or absorb, or both.

(y) "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both.

(z) "Speculative accumulation" means accumulation before recycle. A material is not accumulated speculatively, however, if the person accumulating the material shows that both of the following requirements are met:

(i) That the material is potentially recyclable and has a feasible means of being recycled.

(ii) That during the calendar year commencing on January 1, the amount of material that is recycled or transferred to a different site for recycling equals not less than 75% by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75% requirement is to be applied to each material of the same type that is recycled in the same way. Materials accumulating in units which would be exempt from regulation under R 299.9204(3)(a) or which are already defined as wastes shall not be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling.

(aa) "Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

(bb) "Staging pile" means an accumulation of solid, non-flowing remediation waste that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles shall be designated by the director pursuant to R 299.9638.

(cc) "State" means any of the following:

(i) The several states.

(ii) The District of Columbia.

(iii) The Commonwealth of Puerto Rico.

(iv) The Virgin Islands.

(v) Guam.

(vi) American Samoa.

(vii) The Commonwealth of the Northern Mariana Islands.

(dd) "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

(ee) "Sump" means any pit or reservoir which satisfies the definition of "tank" in R 299.9108(a) and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities. When used in conjunction with the regulation of a landfill, surface impoundment, and waste pile, a sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for later removal from the system.

(ff) "Surface impoundment" or "impoundment" means a treatment, storage, or disposal facility or part of a treatment, storage, or disposal facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

(gg) "Surface water" means a body of water whose top surface is exposed to the atmosphere and includes the Great Lakes, their connecting waters, all inland lakes and ponds, rivers and streams, impoundments, open drains, and other watercourses, except for drainage ways and ponds used solely for wastewater conveyance, treatment, or control.

### **R 299.9109 Definitions; U to Z.**

Rule 109. As used in these rules:

(a) "Underground injection" or "well injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well where the depth of the dug well is greater than the largest surface dimension.

(b) "Underground tank" means a device which satisfies the definition of "tank" specified in R 299.9108(a) and which has its entire surface area below the surface of, and covered by, the ground.

(c) "Unexploded ordnance" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

(d) "Unfit for use tank system" means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

(e) "United States" means any of the following:

(i) The 50 states.

(ii) The District of Columbia.

(iii) The Commonwealth of Puerto Rico.

(iv) The United States Virgin Islands.

(v) Guam.

(vi) American Samoa.

(vii) The Commonwealth of the Northern Mariana Islands.

(f) "United States importer" means a person who has lawfully recognized resident status within the United States and who brings in, or arranges for the entry of, a shipment of hazardous waste into the United States from a foreign country. A United States importer may be any of the following persons:

(i) The person who is liable for primary payment of any United States customs duties on the hazardous waste.

(ii) An agent as defined in R 299.9101.

(iii) The treatment, storage, or disposal facility designated on the manifest.

(iv) The importer of record as designated on the United States customs entry documents.

(v) The transporter who carries the hazardous waste at the point of entry.

(vi) The consignee.

(g) "Universal waste" means any of the hazardous wastes that are identified in R 299.9228(1) and managed pursuant to the provisions of R 299.9228.

(h) "Universal waste handler" means a generator of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste

handlers, accumulates universal waste, and sends universal waste to another universal waste handler, a destination facility, or a foreign destination. The term universal waste handler does not include either of the following:

- (i) A person who treats, disposes of, or recycles universal waste, except as provided for in 40 C.F.R. §273.13(a) or (c) or §273.33(a) or (c).
- (ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.
- (i) "Universal waste large quantity handler" means a universal waste handler who accumulates 5,000 kilograms or more total of universal waste at any time.
- (j) "Universal waste small quantity handler" means a universal waste handler who does not accumulate 5,000 kilograms or more total of universal waste at any time.
- (k) "Universal waste transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas, where shipments of universal waste are held during the normal course of transportation for 10 days or less.
- (l) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.
- (m) "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.
- (n) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer and includes lower aquifers that are hydraulically interconnected with the aquifer within the facility's property boundary.
- (o) "U.S.C." means the United States Code.
- (p) "Used oil" means any oil which has been refined from crude oil, or any synthetic oil, which has been used and which as a result of the use, is contaminated by physical or chemical impurities.
- (q) "Used oil aboveground tank" means a tank which is used to store or process used oil and which is not an underground storage tank as defined in 40 C.F.R. §280.12.
- (r) "Used oil aggregation point" means any site or facility that accepts, aggregates, and/or stores used oil that is collected only from other used oil generation sites owned or operated by the same owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of not more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.
- (s) "Used oil burner" means a facility where off-specification used oil, as defined in R 299.9809(1)(f), is burned for energy recovery in the devices identified in R 299.9814.
- (t) "Used oil collection center" means any site or facility that has provided written notification of used oil management activities to the department and that accepts or aggregates and stores used oil collected from either of the following:
  - (i) Used oil generators regulated pursuant to the provisions of R 299.9810 who transport used oil to the collection center in shipments of not more than 55 gallons under the provisions of 40 C.F.R. §279.24.
  - (ii) Household do-it-yourselfers.
- (u) "Used oil existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced, on or before the effective date of the amendments to these rules that establish the state's used oil program under RCRA. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the tank and if either of the following provisions applies:
  - (i) A continuous on-site physical installation program has begun.

- (ii) The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for installation of the tank system to be completed within a reasonable time.
- (v) "Used oil fuel" means any fuel that is produced from used oil through processing, blending, or other treatment.
- (w) "Used oil fuel marketer" means any person who conducts either of the following activities:
  - (i) Directs a shipment of off-specification used oil from his or her facility to a used oil burner.
  - (ii) First claims that the used oil which is to be burned for energy recovery meets the used oil specifications set forth in R 299.9809(1)(f).
- (x) "Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes the used oil to become subject to regulation.
- (y) "Used oil new tank" means a tank that is used for the storage or processing of used oil and for which installation has commenced after the effective date of amendments to these rules that establish the state's used oil program under RCRA.
- (z) "Used oil processor/re-refiner" means a facility that processes used oil.
- (aa) "Used oil tank" means a stationary device which is designed to contain an accumulation of used oil and which is constructed primarily of nonearthen materials, such as wood, concrete, steel, or plastic, that provide structural support.
- (bb) "Used oil transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other areas, where shipments of used oil are held for more than 24 hours and not more than 35 days during the normal course of transportation or before an activity performed pursuant to the provisions of R 299.9813(1) or (2). Transfer facilities that store used oil for more than 35 days are subject to regulation under R 299.9813.
- (cc) "Used oil transporter" means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation, but with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation but that are not designed to produce, or make more amenable for the production of, used oil derived products or used oil fuel.
- (dd) "Vehicle" means each separate conveyance used in the transportation of hazardous waste that is one of the following:
  - (i) A railcar as defined in 49 C.F.R. §171.8.
  - (ii) A semitrailer, truck, or trailer as defined in Act 300.
  - (iii) A truck tractor as defined in Act 300, only if the hazardous waste is actually transported in the cab of the vehicle.
- (ee) "Vessel" means a watercraft that is used or is capable of being used as a means of transportation on the water.
- (ff) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.
- (gg) "Waste" means material that is defined as waste in R 299.9202.
- (hh) "Waste management area" means the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit and includes horizontal space taken up by any liner, dike, or other barrier that is designed to contain waste in a regulated unit. If the facility contains more than 1 regulated unit, then the waste management area is described by an imaginary line circumscribing the several regulated units.
- (ii) "Wastewater treatment unit" means a device that satisfies all of the following requirements:



- (i) Is part of a wastewater treatment facility that is subject to regulation pursuant to the provisions of either section 402 or section 307(b) of the federal clean water act.
- (ii) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in R 299.9203, generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in R 299.9203, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in R 299.9203.
- (iii) Meets the definition of "tank" or "tank system" specified in R 299.9108.
- (jj) "Water (bulk shipment)" means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.
- (kk) "Well" means any shaft or pit which is dug or bored into the earth, which is generally of a cylindrical form, and which is often walled with bricks or tubing to prevent the earth from caving in.
- (ll) "Wetland" means the areas defined as wetlands in part 303 of the act.
- (mm) "Zone of engineering control" means an area which is under the control of the owner or operator and which, upon detection of a hazardous waste release, can be readily cleaned up before the release of hazardous waste or hazardous constituents to groundwater or surface water.

## **PART 2. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

### **R 299.9202 "Waste" explained.**

Rule 202. (1) A waste is any discarded material that is not excluded by R 299.9204 or that is not excluded by a variance granted under R 299.9202(6) and (7). A discarded material is any material that is any of the following:

- (a) A material that is abandoned by being disposed of; burned or incinerated; or accumulated, stored, or treated before or instead of being abandoned by being disposed of, burned, or incinerated.
- (b) A material which is recycled, or accumulated, stored, or treated before recycling, and which meets 1 of the following criteria:
  - (i) It is a material listed in subrule (2) of this rule and is used in a manner constituting disposal by being either of the following:
    - (A) Applied to or placed on the land in a manner that constitutes disposal.
    - (B) Used to produce products that are applied to or are placed on the land or are otherwise contained in products that are applied to or placed on the land, in which cases the product itself remains a waste. A commercial chemical product listed in R 299.9214 is not a waste if it is applied to the land and that is its ordinary manner of use.
  - (ii) It is a material listed in subrule (2) of this rule and it is burned to recover energy, is used to produce a fuel, or is otherwise contained in fuels, in which cases the fuel itself remains a waste. A commercial chemical product listed in R 299.9214 is not a waste if it is itself a fuel.
  - (iii) It is a material listed in subrule (2)(a), (b), or (c) of this rule and it undergoes reclamation, except as provided for in R 299.9204(1)(v).
  - (iv) It is a material listed in subrule (2)(a), (b), (c), or (d) of this rule and it undergoes speculative accumulation.
  - (v) It is an inherently waste-like material, having a hazardous waste number of F020, F021, F022, F023, F026, or F028, or is another waste determined by the administrator based on both of the following criteria:
    - (A) The materials are ordinarily disposed of, burned, or incinerated or the materials contain toxic constituents which are listed in 40 C.F.R. part 261, appendix VIII, and which are not ordinarily found in raw materials or products for which the materials substitute or are found in raw materials or products in smaller concentrations, and which are not used or reused during the recycling process.

- (B) The material might pose a substantial hazard to human health and the environment when recycled.
- (vi) It is an inherently waste-like material which is a secondary material, which is fed to a halogen acid furnace, and which exhibits a characteristic of a hazardous waste or is listed as a hazardous waste pursuant to part 2 of these rules, except for brominated material that meets all of the following criteria:
  - (A) The material contains a bromine concentration of not less than 45%.
  - (B) The material contains less than a total of 1% of the toxic organic compounds listed in 40 C.F.R. part 261, appendix VIII.
  - (C) The material is processed continually on-site in the halogen acid furnace by direct conveyance such as hard piping.
- (c) It is a military munition identified as a waste under R 299.9817.
- (2) Any of the following materials may be wastes under subrule (1) of this rule:
  - (a) Spent materials.
  - (b) Sludges and by-products listed in R 299.9220 to R 299.9223.
  - (c) Scrap metal other than excluded scrap metal.
  - (d) Sludges and by-products that exhibit a characteristic of hazardous waste.
  - (e) Commercial chemical products listed in R 299.9214.
- (3) Except as provided in subrule (4) of these rules, materials are not wastes if they can be shown to be recycled by any of the following means:
  - (a) By being used or reused as ingredients in an industrial process to make a product if the materials are not being reclaimed.
  - (b) By being used or reused as effective substitutes for commercial products.
  - (c) By being returned to the original process from which they are generated without first being reclaimed or placed on the land. The material must be returned as a substitute for feedstock materials. If the original process to which the material is returned is a secondary process, then the materials must be managed so that they are not placed on the land.

In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion under R 299.9204(1)(v) apply rather than this subrule.
- (4) All of the following materials are wastes, even if the recycling involves use, reuse, or return to the original process described in subrule (3) of this rule:
  - (a) Materials used in a manner constituting disposal or used to produce products that are applied to the land.
  - (b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels.
  - (c) Materials accumulated speculatively.
  - (d) Inherently waste-like materials listed in subrule (1)(b)(v) and (vi) of this rule.
- (5) Respondents in actions to enforce regulations implementing part 111 of the act who raise a claim that a certain material is not waste or is conditionally exempt from regulation shall demonstrate that there is a known market or disposition for the material and that the respondent meets the terms of exclusion or exemption. In doing so, the respondent shall provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials shall show that they have the necessary equipment for recycling the materials.
- (6) The director may determine, on a case-by-case basis, that the following recycled materials are not wastes:
  - (a) Materials that are accumulated speculatively without sufficient amounts being recycled, as defined in R 299.9107.
  - (b) Materials that are reclaimed and then reused within the original production process in which they were generated.

(c) Materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered.

(7) The director shall use the criteria and procedures outlined in 40 C.F.R. §§260.31 and 260.33 for making determinations under subrule (6) of this rule.

(8) The provisions of 40 C.F.R. §§260.31, 260.33, 261.31, 261.32, and 261.33 are adopted by reference in R 299.11003, with the exception that the word "director" shall replace the word "regional administrator."

**R 299.9203 "Hazardous waste" explained.**

Rule 203. (1) A waste, as explained in R 299.9202, is a hazardous waste if it is not excluded from regulation pursuant to R 299.9204(1) or (2) and if it meets any of the following criteria:

(a) It exhibits any of the characteristics of hazardous waste identified in R 299.9212.

(b) It is listed in R 299.9213 or R 299.9214 and has not been excluded from the lists pursuant to R 299.9211.

(c) It is a mixture of a waste and 1 or more hazardous wastes that are listed in R 299.9213 or R 299.9214 and has not been excluded from this subdivision pursuant to R 299.9211 or subrules (7) or (8) of this rule; however, mixtures of wastes and hazardous wastes that are listed in R 299.9213 and R 299.9214 are not hazardous wastes, except by application of subdivision (a) or (b) of this subrule, if the generator can demonstrate that the mixture consists of wastewater which, with respect to discharge, is subject to regulation pursuant to either section 402 or section 307(b) of the federal clean water act, including wastewater at facilities that have eliminated the discharge of wastewater, and is 1 of the following:

(i) One or more of the following spent solvents that are listed in R 299.9213, if the maximum total weekly usage of the solvents, other than the amounts that can be demonstrated not to be discharged to wastewater, divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system is not more than 1 part per million:

(A) Carbon tetrachloride.

(B) Tetrachloroethylene.

(C) Trichloroethylene.

(ii) One or more of the following spent solvents that are listed in R 299.9213, if the maximum total weekly usage of the solvents, other than the amounts that can be demonstrated not to be discharged to wastewater, divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system is not more than 25 parts per million:

(A) Methylene chloride.

(B) 1,1,1-Trichloroethane.

(C) Chlorobenzene.

(D) 0-dichlorobenzene.

(E) Cresols.

(F) Cresylic acid.

(G) Nitrobenzene.

(H) Toluene.

(I) Methyl ethyl ketone.

(J) Carbon disulfide.

(K) Isobutanol.

(L) Pyridine.

(M) Spent chlorofluorocarbon solvents.

(iii) One or more of the following wastes that are listed in R 299.9213 if the wastes are discharged to the refinery oil recovery sewer before primary oil/water/solids separation.

(A) Heat exchanger bundle cleaning sludge from the petroleum refining industry, K050.

(B) Crude oil storage tank sediment from petroleum refining operations, K169.

(C) Clarified slurry oil tank sediment or in-line filter/separation solids from petroleum refining operations, K170.

(D) Spent hydrotreating catalyst, K171.

(E) Spent hydrorefining catalyst, K172.

(iv) A discarded commercial chemical product, or chemical intermediate listed in R 299.9214, arising from de minimis losses of the materials from manufacturing operations in which the materials are used as raw materials or are produced in the manufacturing process. For the purpose of this paragraph, de minimis losses include any of the following:

(A) Losses from normal material handling operations, such as spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices that are used to transfer materials.

(B) Minor leaks of process equipment, storage tanks, or containers.

(C) Leaks from well-maintained pump packings and seals.

(D) Sample purgings.

(E) Relief device discharges.

(F) Discharges from safety showers and the rinsing and cleaning of personal safety equipment.

(G) Rinsate from empty containers or from containers that are rendered empty by that rinsing.

(v) Wastewater which results from laboratory operations and which contains toxic (T) wastes listed in R 299.9213 or R 299.9214 if the annualized average flow of laboratory wastewater is not more than 1% of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system or if the wastes' combined annualized average concentration is not more than

1 part per million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes which are used in laboratories and which are demonstrated not to be discharged to wastewater shall not be included in the calculation.

(vi) Wastewater from the production of carbamates and carbamoyl oximes, K157, if the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine, including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, divided by the average weekly flow of process wastewater before any dilutions into the headworks of the facility's wastewater treatment system is not more than a total of 5 parts per million by weight.

(vii) Wastewater derived from the treatment of organic waste from the production of carbamates and carbamoyl oximes, K156, if the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine before any dilutions into the headworks of the facility's wastewater treatment system is not more than a total of 5 milligrams per liter.

(d) It is a mixture of a waste and a hazardous waste that meets the characteristic of severe toxicity pursuant to R 299.9212(5).

(e) It is a used oil that contains more than 1,000 parts per million total halogens. Used oil that contains more than 1,000 parts per million is presumed to be a hazardous waste and is regulated as such under part 111 of the act and these rules. A person may rebut the presumption by demonstrating that the used oil does not contain hazardous waste. The demonstration may be made by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents that are listed in 40 C.F.R. part 261, appendix VIII. The rebuttable presumption rule does not apply to the following materials:

(i) Metalworking oils or fluids that contain chlorinated paraffins if the oils or fluids are processed through a tolling agreement as specified in 40 C.F.R. §279.24(c) to reclaim the oils or fluids. The rebuttable presumption does apply, however, if the oils or fluids are recycled in any other manner or are disposed of.

(ii) Used oils that are contaminated with chlorofluorocarbons which have been removed from refrigeration units if the chlorofluorocarbons are destined for reclamation. The rebuttable presumption does apply, however, if the used oils are contaminated with chlorofluorocarbons that have been mixed with used oil from sources other than refrigeration units.

(2) A waste that is not excluded from regulation pursuant to R 299.9204(1) or (2) becomes a hazardous waste when any of the following events occur:

(a) In the case of a waste that is listed in R 299.9213 or R 299.9214, when the waste first meets the listing description.

(b) In the case of a mixture of waste and one or more listed hazardous wastes or severely toxic wastes, when a waste that is hazardous pursuant to R 299.9212(5), R 299.9213, or R 299.9214 is first added to the waste.

(c) In the case of any other waste, including a waste mixture, when the waste exhibits any of the characteristics identified in R 299.9212.

(3) Unless and until it meets the criteria of subrule (5) of this rule, a hazardous waste will remain a hazardous waste, and, except as provided in subrules (4), (7), and (8) of this rule, any waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate, but not including precipitation runoff, is a hazardous waste. Materials that are reclaimed from wastes and that are used beneficially are not wastes and hence are not hazardous wastes pursuant to this subrule, unless the reclaimed material is burned for energy recovery or used in a manner that constitutes disposal.

(4) All of the following wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit 1 or more of the characteristics of hazardous waste:

(a) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, as defined by standard industrial codes 331 and 332 in the office of management and budget document entitled "Standard Industrial Classification Manual."

(b) Wastes from burning any of the materials exempted from regulation by R 299.9206(3)(c) to (f).

(c) Nonwastewater residues, such as slag, which result from high temperature metals recovery processing of K061, K062, or F006 waste in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces and which are disposed of in units regulated under part 115 of the act, if the residues are in compliance with the specified generic exclusion levels. Testing requirements shall be incorporated in a facility's waste analysis plan or generator's self-implementing waste analysis plan. At a minimum, samples of residues shall be collected and analyzed quarterly or when the process or operation generating the waste changes. A person who claims this exclusion in an enforcement action shall have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements:

(i) For K061 and K062 nonwastewater high temperature metals recovery residues, the specified generic exclusion levels are as follows:

(A) Antimony, 0.10 mg/l.

(B) Arsenic, 0.50 mg/l.

(C) Barium, 7.6 mg/l.

(D) Beryllium, 0.010 mg/l.

(E) Cadmium, 0.050 mg/l.

(F) Chromium (total), 0.33 mg/l.

(G) Lead, 0.15 mg/l.

(H) Mercury, 0.009 mg/l.

(I) Nickel, 1.0 mg/l.

(J) Selenium, 0.16 mg/l.

(K) Silver, 0.30 mg/l.

(L) Thallium, 0.020 mg/l.

(M) Zinc, 70 mg/l.

(ii) For F006 nonwastewater high temperature metals recovery residues, the specified generic exclusion levels are as follows:

(A) Antimony, 0.10 mg/l.

(B) Arsenic, 0.50 mg/l.

(C) Barium, 7.6 mg/l.

(D) Beryllium, 0.010 mg/l.

(E) Cadmium, 0.050 mg/l.

(F) Chromium (total), 0.33 mg/l.

(G) Cyanide (total), 1.8 mg/kg.

(H) Lead, 0.15 mg/l.

(I) Mercury, 0.009 mg/l.

(J) Nickel, 1.0 mg/l.

(K) Selenium, 0.16 mg/l.

(L) Silver, 0.30 mg/l.

(M) Thallium, 0.020 mg/l.

(N) Zinc, 70 mg/l.

(iii) For nonwastewater residues resulting from the high temperature metals recovery processing of KO61, K062, or F006 waste which meet the generic exclusion levels specified in this subdivision and which do not exhibit any hazardous waste characteristic, and which are sent to a unit regulated under part 115 of the act, the person claiming the exclusion shall send a 1-time notification and certification to the director. The notification and certification shall be in compliance with all of the following provisions:

(A) The notification and certification shall be maintained at the facility.

(B) The notification and certification shall be updated by the person claiming the exclusion if the process or operation generating the waste changes or if the unit regulated under part 115 of the act that is receiving the waste changes. However, the director need only be notified on an annual basis, by the end of the calendar year, if a change occurs.

(C) The notification shall include all of the following information:

(1) The name and address of the unit regulated under part 115 of the act that is receiving the waste shipment.

(2) The site identification number and treatability group of the waste at the initial point of generation.

(3) The treatment standards applicable to the waste at the initial point of generation.

(D) The certification shall be signed by an authorized representative and shall include the following statement: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(d) Biological treatment sludge from the treatment of organic wastes from the production of carbamates and carbamoyl oximes, K156, or wastewaters from the production of carbamates and carbamoyl oximes, K157.

- (e) Catalyst inert support media separated from 1 or more of the following wastes listed in R 299.9213:
  - (i) Spent hydrotreating catalyst, K171.
  - (ii) Spent hydrorefining catalyst, K172.
- (5) Any waste that is described in subrule (3) of this rule is not a hazardous waste if it is in compliance with the following criteria, as applicable:
  - (a) In the case of any waste, it does not exhibit any of the characteristics of hazardous waste that are identified in R 299.9212. However, a waste that exhibits a characteristic at the point of generation may still be subject to the requirements of 40 C.F.R. part 268, even if the waste does not exhibit a characteristic at the point of land disposal.
  - (b) In the case of a waste which is listed in R 299.9212(5), R 299.9213, or R 299.9214, which contains a waste that is listed in these rules, or which is derived from a waste that is listed in these rules, the waste also has been excluded from regulation pursuant to R 299.9211.
- (6) Notwithstanding subrules (1) to (5) of this rule and if the debris, as defined in 40 C.F.R. part 268, does not exhibit a hazardous characteristic identified in R 299.9212, the following materials are not subject to regulation under part 111 of the act and these rules, except for R 299.9809 to R 299.9816:
  - (a) Hazardous debris that has been treated using 1 of the required extraction or destruction technologies specified in table 1 of 40 C.F.R. §268.45. A person who claims this exclusion in an enforcement action shall have the burden of proving, by clear and convincing evidence, that the material meets all of the exclusion requirements.
  - (b) Debris that the director, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.
- (7) A hazardous waste that is listed in R 299.9213 or R 299.9214 solely because it exhibits 1 or more characteristics of ignitability, corrosivity, or reactivity, as defined under R 299.9212, is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in R 299.9212. However, the waste remains subject to 40 C.F.R. part 268, as applicable, even if the waste no longer exhibits a characteristic at the point of land disposal. This exclusion is limited to any of the following:
  - (a) A mixture of a waste and a hazardous waste listed in R 299.9213 or R 299.9214 solely because it exhibits 1 or more characteristics of ignitability, corrosivity, or reactivity which is generated as a result of a cleanup conducted at the individual site of generation pursuant to part 31, part 111, part 201, part 213, or CERCLA.
  - (b) A waste generated from the treatment, storage, or disposal of a hazardous waste listed in R 299.9213 or R 299.9214 solely because it exhibits the characteristic of ignitability.
  - (c) A mixture of a waste excluded from regulation under R 299.9204(2)(h) and a hazardous waste listed in R 299.9213 or R 299.9214 solely because it exhibits 1 or more of the characteristics of ignitability, corrosivity, or reactivity which is generated as a result of a cleanup conducted at the individual site of generation pursuant to part 31, part 111, part 201, part 213, or CERCLA.
- (8) Hazardous waste that contains radioactive waste is no longer a hazardous waste when it meets the eligibility criteria and conditions of R 299.9822 and R 299.9823. This exclusion is limited to either of the following:
  - (a) A mixture of a waste and an eligible radioactive mixed waste.
  - (b) A waste generated from the treatment, storage, or disposal of an eligible radioactive mixed waste.
- (9) The office of management and budget document entitled "Standard Industrial Classification Manual" is adopted by reference in R 299.11007.

#### **R 299.9204 Exclusions.**

Rule 204. (1) The following materials are not wastes for the purpose of part 111 of the act and these rules:

- (a) Domestic sewage and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment. Domestic sewage means untreated sanitary wastes that pass through a sewer system.
- (b) Industrial wastewater discharges that are point source discharges subject to regulation pursuant to section 402 of the federal clean water act, as amended, except for discharges to injection wells.
- (c) Irrigation return flows.
- (d) Source, special nuclear, or by-product material as defined by the atomic energy act of 1954, as amended, 42 U.S.C. §2011 et seq.
- (e) Materials which are subjected to in-situ mining techniques and which are not removed from the ground as part of the extraction process.
- (f) Pulping liquors that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless the liquors are accumulated speculatively, as defined in R 299.9107.
- (g) Spent sulfuric acid that is used to produce virgin sulfuric acid, unless the spent acid is accumulated speculatively, as defined in R 299.9107.
- (h) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated and where they are reused in the production process, if all of the following provisions apply:
  - (i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance.
  - (ii) The reclamation does not involve controlled flame combustion, such as occurs in boilers, industrial furnaces, or incinerators.
  - (iii) The secondary materials are not accumulated in such tanks for more than 12 months without being reclaimed.
  - (iv) The reclaimed material is not used to produce a fuel and is not used to produce products that are used in a manner that constitutes disposal.
- (i) Spent wood preserving solutions which have been reclaimed and which are reused for their original intended purpose.
- (j) Wastewaters from the wood preserving process which have been reclaimed and which are reused to treat wood.
- (k) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, if the residue, if shipped, is shipped, in containers and is not land disposed before recovery.
- (l) Oil-bearing hazardous secondary materials such as sludges, by-products, and spent materials, that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911), including distillation, catalytic cracking, fractionation, or thermal cracking units, unless the material is placed on the land, or accumulated speculatively before being so recycled. Materials inserted into thermal cracking units are excluded under this subdivision if the coke product does not exhibit a characteristic of a hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another refinery, and still be excluded under this subdivision. Except as provided for in subdivision (m) of this subrule, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry are not excluded under this subdivision. Residuals generated from processing or recycling materials excluded under this subdivision, where such materials as generated would have otherwise met a listing under R 299.9213 or R 299.9214, are designated as F037 wastes when disposed of or intended for disposal.
- (m) Recovered oil that is recycled in the same manner and with the same conditions as described in subdivision (l) of this subrule. Recovered oil is oil that has been reclaimed from secondary materials, including wastewater, generated from normal petroleum industry practices, including refining,



exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4789, 4922, 4923, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in part 2 of these rules. However, oil recovered from oil-bearing hazardous wastes listed in part 2 of these rules may be considered recovered oil. Recovered oil also does not include used oil as defined in R 299.9109.

(n) EPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148 and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in R 299.9212 when, after generation, the materials are recycled to coke ovens or to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar before the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point that the wastes are generated to the point that they are recycled to coke ovens or tar recovery or refining processes or are mixed with coal tar.

(o) Materials which are reclaimed from used oil and which are used beneficially if the materials are not burned for energy recovery or used in a manner that constitutes disposal of the materials.

(p) Excluded scrap metal that is being recycled.

(q) Shredded circuit boards that are being recycled if both of the following requirements are met:

(i) The shredded circuit boards are stored in containers sufficient to prevent a release to the environment before recovery.

(ii) The shredded circuit boards are free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.

(r) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 C.F.R. §63.446(e). This exemption applies only to combustion at the mill generating the condensates.

(s) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided both the following requirements are met:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability as defined in R 299.9212 or toxicity for benzene as defined in R 299.9212 and R 299.9217.

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land or speculatively accumulated before being recycled into the petroleum refining process.

(t) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land or speculatively accumulated.

(u) Before reuse, the wood preserving wastewaters and spent wood preserving solutions described in subdivisions (i) and (j) of this subrule if all of the following requirements are met:

(i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended use.

(ii) Before reuse, the wastewaters and spent wood preserving solutions are managed to prevent releases to either the land or groundwater or both.

(iii) Units used to manage wastewaters or spent wood preserving solutions before reuse can be visually or otherwise determined to prevent releases to either land or groundwater.

(iv) Drip pads used to manage the wastewaters or spent wood preserving solutions before reuse are in compliance with 40 C.F.R. part 265, subpart W regardless of whether the plant generates a total of less than 1,000 kilograms per month of hazardous waste.

(v) Before operating pursuant to this exclusion, the plant owner or operator complies with all of the following requirements otherwise the exclusion shall not apply:

(A) Submits a 1-time notification to the director stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the

following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulations."

(B) The owner or operator maintains a copy of the 1-time notification required pursuant to subparagraph (v) of this subdivision in its on-site records for a period of not less than 3 years from the date specified in the notice.

(C) If the plant voids the exclusion by not complying with the exclusion conditions and wishes to have its wastes excluded again, it shall apply to the director for reinstatement. The director may reinstate the exclusion upon finding that the plant has returned to compliance with all of the conditions and that violations are not likely to recur.

(v) Spent materials, other than hazardous waste listed under R 299.9213 or R 299.9214, that are generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation if all of the following requirements are met:

(i) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values.

(ii) The spent material is not speculatively accumulated.

(iii) Except as provided under paragraph (iv) of this subdivision, the spent material is stored in tanks, containers, or buildings which meet the following requirements as applicable:

(A) If using a building, the building shall be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support, except smelter buildings which may have partially earthen floors provided that the spent material is stored on the non-earthen portion, have a roof which is suitable for diverting rainwater away from the foundation, and be designed, constructed, and operated to prevent significant releases of the material to the environment.

(B) If using a tank, the tank shall be free standing, not meet the definition of a surface impoundment, be manufactured of a material suitable for containment of its contents, be operated in a manner which controls fugitive dust if the tank contains any particulate which may be subject to wind dispersal, and be designed, constructed, and operated to prevent significant releases of the material to the environment.

(C) If using a container, the container shall be free standing and be manufactured of a material suitable for containment of its contents, be operated in a manner which controls fugitive dust if the container contains any particulate which may be subject to wind dispersal, and be designed, constructed, and operated to prevent significant releases of the material to the environment.

(iv) The spent materials are placed on pads if all of the following requirements are met:

(A) The solid mineral processing spent materials do not contain any free liquid.

(B) The pad is designed, constructed, and operated to prevent significant releases of the spent material into the environment.

(C) The pad provides the same degree of containment afforded by non-RCRA tanks, containers, and buildings eligible for this exclusion.

(D) The pad is designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material.

(E) The pad is capable of withstanding physical stresses associated with placement and removal.

(F) The pad has run-on/run-off controls.

(G) The pad is operated in a manner which controls fugitive dust.

(H) The integrity of the pad is ensured through inspections and maintenance programs.

(I) The director makes a site-specific determination that the materials may be placed on a pad rather than in tanks, containers, or buildings. In making such a determination, the director shall consider whether storage on a pad poses the potential for significant releases via groundwater, surface water, and air exposure pathways. When assessing the groundwater, surface water, and air exposure

pathways, the director shall consider the volume and physical and chemical properties of the spent material, including its potential for migration off of the pad, the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway. Before making such a determination, the director shall provide notice and the opportunity for comment to all persons potentially interested in the determination. Notice may be accomplished by placing notice of the action in major local newspapers or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the director which provides the following information and is updated when there is a change in the type of materials recycled or the location of the recycling process:

(A) The types of materials to be recycled.

(B) The type and location of storage units and recycling processes.

(C) The annual quantities expected to be placed in land-based units.

(vi) For the purposes of the exclusion under R 299.9204(2)(h), mineral processing spent materials shall be the result of mineral processing and may not include any hazardous wastes listed under R 299.9213 or R 299.9214. Listed hazardous wastes and characteristic hazardous waste generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of waste.

(w) Comparable fuels or comparable syngas fuels that meet the requirements of R 299.9230.

(x) Hazardous secondary materials used to make zinc fertilizers, if the following conditions are met:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers shall not be accumulated speculatively.

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers shall comply with all of the following requirements:

(A) Submit a 1-time notice to the director which contains the name, address, and site identification number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions of this subdivision.

(B) Store the excluded secondary material in buildings, tanks, or containers that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose shall be an engineered structure made of non-earthen materials that provide structural support, and shall have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose shall be structurally sound and, if outdoors, shall have roofs or covers that prevent contact with wind and rain. Containers that are used for this purpose shall be kept closed except when it is necessary to add or remove material, and shall be in sound condition. Containers that are stored outdoors shall be managed within storage areas that have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation; provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subdivision.

(D) Maintain at the generator's or intermediate handler's facility for no less than 3 years records of all shipments of excluded hazardous secondary materials. At a minimum, the records for each shipment shall include the name of the transporter, the date of the shipment, the name and address of the facility that received the excluded material, documentation confirming receipt of the shipment, and the type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials shall comply with all of the following requirements:

- (A) Store excluded hazardous secondary material pursuant to the storage requirements for generators and intermediate handlers, as specified in paragraph (ii) of this subdivision.
- (B) Submit a 1-time notification to the director which contains the name, address, and site identification number of the manufacturing facility and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions of this subdivision.
- (C) Maintain for no less than 3 years records of all shipments of excluded hazardous secondary materials received by the manufacturer. At a minimum, the records for each shipment shall include the name and address of the generating facility, the name of the transporter, the date the materials were received, the quantity of materials received, and a brief description of the industrial process that generated the material.
- (D) Submit to the director an annual report which identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process from which they were generated.
- (iv) Nothing in this subdivision preempts, overrides, or otherwise negates the requirements of R 299.9302 which requires any person who generates a waste to determine if the waste is a hazardous waste.
- (v) Interim status and licensed storage units that have been used to store only zinc-bearing hazardous wastes before the submission of the 1-time notice described in paragraph (ii) of this subdivision, and that afterward will be used only to store hazardous secondary materials excluded under this subdivision, are not subject to the closure requirements of part 6 of these rules.
- (y) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under subdivision (x) of this subrule, provided that the following conditions are met:
  - (i) The fertilizers meet the following contaminant limits, established as the maximum allowable total concentration in fertilizer per 1% of zinc, for metal contaminants:
    - (A) Arsenic, 0.3 parts per million.
    - (B) Cadmium, 1.4 parts per million.
    - (C) Chromium, 0.6 parts per million.
    - (D) Lead, 2.8 parts per million.
    - (E) Mercury, 0.3 parts per million.
  - (ii) The fertilizers meet the contaminant limit for dioxin contaminants of not more than 8 parts per trillion of dioxin, measured as toxic equivalent.
  - (iii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals not less than every 6 months, and for dioxins not less than every 12 months. Testing shall also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical methods to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.
  - (iv) The manufacturer maintains for not less than 3 years records of all sampling and analysis performed for the purposes of determining compliance with the requirements of paragraph (iii) of this subdivision. At a minimum, such records shall include all of the following:
    - (A) The dates and times product samples were taken, and the dates the samples were analyzed.
    - (B) The names and qualifications of the persons taking the samples.
    - (C) A description of the methods and equipment used to take the samples.
    - (D) The name and address of the laboratory facility at which analyses of the samples were performed.

(E) A description of the analytical methods used, including any cleanup and sample preparation methods.

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in paragraphs (i) and (ii) of this subdivision.

(2) The following wastes are not hazardous wastes for the purposes of part 111 of the act and these rules:

(a) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered, or reused. Household waste means any waste material, including garbage, trash, and sanitary wastes in septic tanks, that is derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas. A resource recovery facility that manages municipal waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation pursuant to these rules if the facility is in compliance with both of the following provisions:

(i) Receives and burns only household waste from single and multiple dwellings, hotels, motels, and other residential sources and waste from commercial or industrial sources that does not contain hazardous waste.

(ii) Does not accept hazardous wastes and the owner or operator of the facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in the facility.

(b) Wastes which are generated by either of the following and which are returned to the soil as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(c) Mining overburden that is returned to the mine site.

(d) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste that is generated primarily from the combustion of coal or other fossil fuels, except as provided by 40 C.F.R. §266.112 for facilities that burn or process hazardous waste.

(e) Drilling fluids, produced waters, and other wastes that are associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.

(f) Wastes which fail the test for the toxicity characteristic because chromium is present or wastes that are listed in R 299.9213 or R 299.9214 due to the presence of chromium, which do not fail the test for the toxicity characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that all of the following provisions are met:

(i) The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium.

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium.

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(g) The following specific wastes that are in compliance with the standard in subdivision (f) of this subrule, if the wastes do not fail the test for the toxicity characteristic for any other constituent and do not fail the test for any other characteristic:

(i) Chrome (blue) trimmings generated by any of the following subcategories of the leather tanning and finishing industry:

(A) Hair pulp/chrome, tan/retan/wet finish.

(B) Hair save/chrome, tan/retan/wet finish.

(C) Retan/wet finish.

(D) No beamhouse.

- (E) Through-the-blue.
- (F) Shearling.
- (ii) Chrome (blue) shavings generated by any of the following subcategories of the leather tanning and finishing industry:
  - (A) Hair pulp/chrome, tan/retan/wet finish.
  - (B) Hair save/chrome, tan/retan/wet finish.
  - (C) Retan/wet finish.
  - (D) No beamhouse.
  - (E) Through-the-blue.
  - (F) Shearling.
- (iii) Buffing dust generated by any of the following subcategories of the leather tanning and finishing industry:
  - (A) Hair pulp/chrome, tan/retan/wet finish.
  - (B) Hair save/chrome, tan/retan/wet finish.
  - (C) Retan/wet finish.
  - (D) No beamhouse.
  - (E) Through-the-blue.
- (iv) Sewer screenings generated by any of the following subcategories of the leather tanning and finishing industry:
  - (A) Hair pulp/chrome, tan/retan/wet finish.
  - (B) Hair save/chrome, tan/retan/wet finish.
  - (C) Retan/wet finish.
  - (D) No beamhouse.
  - (E) Through-the-blue.
  - (F) Shearling.
- (v) Wastewater treatment sludges generated by any of the following subcategories of the leather tanning and finishing industry:
  - (A) Hair pulp/chrome, tan/retan/wet finish.
  - (B) Hair save/chrome, tan/retan wet finish.
  - (C) Retan/wet finish.
  - (D) No beamhouse.
  - (E) Through-the-blue.
  - (F) Shearling.
- (vi) Wastewater treatment sludges generated by any of the following subcategories of the leather tanning and finishing industry:
  - (A) Hair pulp/chrome, tan/retan/wet finish.
  - (B) Hair save/chrome, tan/retan/wet finish.
  - (C) Through-the-blue.
- (vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.
- (viii) Wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process.
- (h) Waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore, except as provided in 40 C.F.R. §266.112 for facilities that burn or process hazardous waste. For purposes of this subdivision, the following provisions apply:
  - (i) Beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting;

calcining to remove water or carbon dioxide, or both; roasting, autoclaving, or chlorination, or any combination thereof, in preparation for leaching, except where the roasting/leaching or autoclaving/leaching or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing; gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in-situ leaching.

(ii) Waste from the processing of ores and minerals shall include only the following wastes as generated:

- (A) Slag from primary copper processing.
- (B) Slag from primary lead processing.
- (C) Red and brown muds from bauxite refining.
- (D) Phosphogypsum from phosphoric acid production.
- (E) Slag from elemental phosphorus production.
- (F) Gasifier ash from coal gasification.
- (G) Process wastewater from coal gasification.
- (H) Calcium sulfate wastewater treatment plant sludge from primary copper processing.
- (I) Slag tailings from primary copper processing.
- (J) Fluorogypsum from hydrofluoric acid production.
- (K) Process wastewater from hydrofluoric acid production.
- (L) Air pollution control dust/sludge from iron blast furnaces.
- (M) Iron blast furnace slag.
- (N) Treated residue from roasting/leaching of chrome ore.
- (O) Process wastewater from primary magnesium processing by the anhydrous process.
- (P) Process wastewater from phosphoric acid production.
- (Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production.
- (R) Basic oxygen furnace and open hearth furnace slag from carbon steel production.
- (S) Chloride process waste solids from titanium tetrachloride production.
- (T) Slag from primary zinc processing.

(iii) Residues derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remain excluded under subrule (2) of this rule if the owner or operator meets both of the following requirements:

- (A) Processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials.
- (B) Legitimately reclaims the secondary mineral processing materials.
- (i) Mixtures of a waste that is excluded from regulation pursuant to subdivision (h) of this subrule and any other waste that exhibits a hazardous waste characteristic pursuant to R 299.9212 and that is not listed pursuant to R 299.9213 or R 299.9214, such that the resultant mixture does not exhibit any hazardous waste characteristic that would have been exhibited by the non-excluded waste alone if the mixture had not occurred.
- (j) Cement kiln dust waste, except as provided in 40 C.F.R. §266.112 for facilities that burn or process hazardous waste.
- (k) Waste which consists of discarded arsenical-treated wood or wood products, which fails the test for the toxicity characteristic for hazardous waste numbers D004 through D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

- (l) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic pursuant to R 299.9212 for hazardous waste numbers D018 through D043 only and are subject to the corrective action regulations pursuant to 40 C.F.R. part 280.
- (m) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, if the refrigerant is reclaimed for further use.
- (n) Non-terne plated used oil filters that are not mixed with wastes that are identified in R 299.9213 or R 299.9214, or both, if the oil filters have been gravity hot-drained using 1 of the following methods:
  - (i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining.
  - (ii) Hot-draining and crushing.
  - (iii) Dismantling and hot-draining.
  - (iv) Any other equivalent hot-draining method that will remove used oil.
- (o) Leachate or gas condensate collected from landfills where certain wastes have been disposed of provided that all of the following requirements are met:
  - (i) The wastes disposed would meet 1 or more of the listing descriptions for hazardous waste numbers K169, K170, K171, K172, K174, K175, K176, K177, and K178 if these wastes had been generated after the effective date of the listing.
  - (ii) The wastes described in paragraph (i) of this subdivision were disposed before February 8, 1999.
  - (iii) The leachate or gas condensate do not exhibit any characteristic of a hazardous waste and are not derived from any other listed hazardous waste.
  - (iv) The discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a publicly owned treatment works by truck, rail, or dedicated pipe, is subject to regulations under sections 307(b) or 402 of the federal clean water act.
  - (v) As of February 13, 2001, leachate or gas condensate derived from K169, K170, K171, and K172 is no longer exempt if it is stored or managed in a surface impoundment before discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, or K178 will no longer be exempt if it is stored or managed in a surface impoundment before discharge unless the surface impoundment meets both of the following requirements:
    - (A) The surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation.
    - (B) The surface impoundment has a double liner, and the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of subdivision (o) of this subrule after the emergency ends.
- (3) The following hazardous wastes are not subject to regulation pursuant to parts 3 to 10 of these rules:
  - (a) A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or a manufacturing process unit or an associated nonwaste treatment manufacturing unit. This exemption does not apply in any of the following circumstances:
    - (i) Once the waste exits the unit in which it was generated.
    - (ii) If the unit is a surface impoundment.
    - (iii) If the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for the manufacturing, storage, or transportation of product or raw materials.
  - (b) Waste pesticides and pesticide residues which are generated by a farmer from his or her own use and which are hazardous wastes if the pesticide residues are disposed of on the farmer's own farm in a manner that is consistent with the disposal instructions on the pesticide container label and if the farmer empties or cleans each pesticide container pursuant to R 299.9207.



(4) Except as provided in subrule (5) of this rule, a sample of waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to part 111 of the act and these rules if 1 of the following provisions is met:

- (a) The sample is being transported to a laboratory for the purpose of testing.
- (b) The sample is being transported back to the sample collector after testing.
- (c) The sample is being stored by the sample collector before transport to a laboratory for testing.
- (d) The sample is being stored in a laboratory before testing.
- (e) The sample is being stored in a laboratory after testing but before it is returned to the sample collector.
- (f) The sample is being stored temporarily in the laboratory after testing for a specific purpose, such as until conclusion of a court case or enforcement action where further testing of the sample might be necessary.

(5) To qualify for the exemption specified in subrule (4) of this rule, a sample collector that ships samples to a laboratory and a laboratory that returns samples to a sample collector shall comply with DOT, United States postal service, or any other applicable shipping requirements. The sample collector shall only ship a volume that is necessary for testing and analysis and, if the sample collector determines that DOT, United States postal service, or other shipping requirements do not apply to the shipment of the sample, the sample collector shall package the sample so that it does not leak, spill, or vaporize from its packaging and assure that all of the following information accompanies the sample:

- (a) The sample collector's name, mailing address, and telephone number.
- (b) The laboratory's name, mailing address, and telephone number.
- (c) The quantity of the sample.
- (d) The date of shipment.
- (e) A description of the sample.

(6) The exemption specified in subrule (4) of this rule does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer in compliance with any of the conditions stated in subrule (5) of this rule.

(7) Persons who generate or collect samples for the purpose of conducting treatability studies as defined in R 299.9108 are not subject to the requirements of parts 2, 3, and 4 of these rules or the notification requirements of section 3010 of RCRA and the samples are not included in the quantity determinations specified in R 299.9205 and R 299.9306(4) when the sample is being collected and prepared for transportation by the generator or sample collector, the sample is being accumulated or stored by the generator or sample collector before transportation to a laboratory or testing facility, or the sample is being transported to a laboratory or testing facility for the purpose of conducting a treatability study. The exemption specified in this subrule is applicable to samples of hazardous waste that are being collected and shipped for the purpose of conducting treatability studies if all of the following provisions are complied with:

- (a) The generator or sample collector does not use more than 10,000 kilograms of media that is contaminated with nonacute hazardous waste, 1,000 kilograms of any nonacute hazardous waste other than contaminated media, 1 kilogram of acute or severely toxic hazardous waste, or 2,500 kilograms of media that is contaminated with acute or severely toxic hazardous waste for each process that is being evaluated for each generated waste stream in a treatability study.
- (b) The mass of each sample shipment is not more than 10,000 kilograms. The 10,000-kilograms quantity may be all media contaminated with nonacute hazardous waste or may include 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, 1,000 kilograms of nonacute hazardous waste, and 1 kilogram of acute or severely toxic hazardous waste.
- (c) The sample shall be packaged and transported so that it will not leak, spill, or vaporize from its packaging during shipment and so that either of the following requirements are met:

- (i) The transportation of each sample shipment is in compliance with United States department of transportation, United States postal service, or any other applicable shipping requirements.
- (ii) If the DOT, United States postal service, or other shipping requirements do not apply to the shipment of the sample, all of the following information shall accompany the sample:
  - (A) The name, mailing address, and telephone number of the originator of the sample.
  - (B) The name, address, and telephone number of the facility that will perform the treatability study.
  - (C) The quantity of the sample.
  - (D) The date of the shipment.
  - (E) A description of the sample, including its hazardous waste number.
- (d) The sample is shipped to a laboratory or testing facility that is exempt pursuant to subrule (10) of this rule or has an appropriate RCRA permit, state hazardous waste operating license, or interim status.
- (e) The generator or sample collector maintains all of the following records for 3 years after completion of the treatability study:
  - (i) Copies of the shipping documents.
  - (ii) A copy of the contract with the facility that conducts the treatability study.
  - (iii) Documentation that shows all of the following information:
    - (A) The amount of waste that is shipped pursuant to this exemption.
    - (B) The name, address, and site identification number of the laboratory or testing facility that received the waste.
    - (C) The date the shipment was made.
    - (D) If unused samples and residues were returned to the generator.
- (f) The generator reports the information required pursuant to subdivision (e)(iii) of this subrule in its biennial report.
- (8) The director may grant requests on a case-by-case basis for up to an additional 2 years for treatability studies involving bioremediation. The director may grant requests on a case-by-case basis for quantity limits in excess of those specified in subrules (7)(a) and (b) and (10)(d) of this rule for up to an additional 5,000 kilograms of media contaminated with nonacute hazardous waste, 500 kilograms of nonacute hazardous waste, 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, and 1 kilogram of acute or severely toxic hazardous waste. A request may be granted in response to 1 or both of the following requests:
  - (a) A request for authorization to ship, store, and conduct treatability studies on, additional quantities in advance of commencing treatability studies. The director shall consider all of the following factors in determining whether to grant the request:
    - (i) The nature of the technology.
    - (ii) The type of process.
    - (iii) The size of the unit undergoing testing, particularly in relation to scale-up considerations.
    - (iv) The time and quantity of material required to reach steady state operating conditions.
    - (v) Test design considerations such as mass balance calculations.
  - (b) A request for authorization to ship, store, and conduct treatability studies on, additional quantities after initiation or completion of initial treatability studies when any of the following occur:
    - (i) There has been an equipment or mechanical failure during the conduct of a treatability study.
    - (ii) There is a need to verify the results of a previously conducted treatability study.
    - (iii) There is a need to study and analyze alternative techniques within a previously evaluated treatment process.
    - (iv) There is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

- (9) The additional quantities and time frames allowed under subrule (8) of this rule are subject to this rule. The generator or sample collector shall apply to the director and shall provide, in writing, all of the following information:
- (a) The reason why the generator or sample collector requires an additional quantity of the sample or time for the treatability study evaluation and the additional quantity or time needed.
  - (b) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including all of the following information:
    - (i) The date that each previous sample from the waste stream was shipped.
    - (ii) The sample quantity of each previous shipment.
    - (iii) The laboratory or testing facility to which the sample was shipped.
    - (iv) What treatability study processes were conducted on each sample shipped.
    - (v) The available results of each treatability study.
  - (c) A description of the technical modifications or change in specifications that will be evaluated and the expected results.
  - (d) If further study is being required due to equipment or mechanical failure, then the applicant shall include information regarding the reason for the failure and also include a description of what procedures were established, or what equipment improvements have been made, to protect against further equipment or mechanical failure.
  - (e) Other information that the director considers necessary.
- (10) Samples that undergo treatability studies and the laboratory or testing facility that conducts the treatability studies, to the extent the facilities are not otherwise subject to the requirements of part 111 of the act or these rules, are not subject to any of the requirements of these rules or to the notification requirements of section 3010 of RCRA if the conditions of this subrule are met. A mobile treatment unit may qualify as a testing facility subject to this subrule. If a group of mobile treatment units is located at the same site, then the limitations specified in this subrule apply to the entire group of mobile treatment units collectively as if the group were 1 mobile treatment unit. The conditions are as follows:
- (a) Not less than 45 days before conducting treatability studies, the facility shall notify the director, in writing, that it intends to conduct treatability studies pursuant to this rule.
  - (b) The laboratory or testing facility that conducts the treatability study has a site identification number.
  - (c) Not more than a total of 10,000 kilograms of "as received" media contaminated with nonacute hazardous waste, 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, or 250 kilograms of other "as received" hazardous waste is subjected to the initiation of treatment in all treatability studies in any single day. "As received" hazardous waste refers to waste as received in the shipment from the generator or sample collector.
  - (d) The quantity of "as received" hazardous waste that is stored at the facility for the purpose of evaluation in treatability studies is not more than 10,000 kilograms, the total of which may include 10,000 kilograms of media contaminated with nonacute hazardous waste, 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, 1,000 kilograms of nonacute hazardous waste other than contaminated media, and 1 kilogram of acute or severely toxic hazardous waste. The quantity limitation does not include treatment materials, including nonhazardous waste, that are added to "as received" hazardous waste.
  - (e) Not more than 90 days have elapsed since the treatability study for the sample was completed, or not more than 1 year, or 2 years for treatability studies involving bioremediation, has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date occurs first.
  - (f) The treatability study does not involve the placement of hazardous waste on the land or the open burning of hazardous waste.

(g) The facility maintains records, for 3 years following completion of each study, that show compliance with the treatment rate limits, storage time, and quantity limits. All of the following specific information shall be included for each treatability study that is conducted:

(i) The name, address, and site identification number of the generator or sample collector of each waste sample.

(ii) The date the shipment was received.

(iii) The quantity of waste accepted.

(iv) The quantity of "as received" waste in storage each day.

(v) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day.

(vi) The date the treatability study was concluded.

(vii) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the site identification number.

(h) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years from the completion date of each treatability study.

(i) The facility prepares and submits a report to the director by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year and includes all of the following information for the previous calendar year:

(i) The name, address, and site identification number of the facility conducting the treatability studies.

(ii) The types, by process, of treatability studies conducted.

(iii) The names and addresses of persons for whom studies have been conducted, including their site identification numbers.

(iv) The total quantity of waste in storage each day.

(v) The total quantity and types of waste subjected to treatability studies.

(vi) When each treatability study was conducted.

(vii) The final disposition of residues and unused sample from each treatability study.

(j) The facility determines if any unused sample or residues generated by the treatability study are hazardous waste pursuant to R 299.9203 and, if so, are subject to these rules, unless the residues and unused samples are returned to the sample originator pursuant to the exemption in subrule (7) of this rule.

(k) The facility notifies the director, by letter, when the facility is no longer planning to conduct any treatability studies at the site.

(11) The disposal of PCB-containing dielectric fluid and electric equipment that contains the fluid as authorized for use and as regulated pursuant to 40 C.F.R. part 761 and fluid and equipment that are hazardous only because they fail the test for the toxicity characteristic for hazardous waste numbers D018 through D043 are not subject to regulation pursuant to parts 2 to 7 and 9 and 10 of these rules.

Dredged material, as defined in 40 C.F.R. §232.2, that is subject to the requirements of a permit that has been issued pursuant to section 404 of the federal water pollution control act, 33 U.S.C. §1344, or section 103 of the marine protection, research, and sanctuaries act of 1972, 33 U.S.C. §1413, is not a hazardous waste for the purposes of part 111 of the act and these rules. For the purposes of this exemption, the term "permit" means any of the following:

(a) A permit issued by the U.S. army corps of engineers or an approved state under section 404 of the federal water pollution control act, 33 U.S.C. §1344.

(b) A permit issued by the U.S. army corps of engineers under section 103 of the marine protection, research, and sanctuaries act of 1972, 33 U.S.C. §1413.

(c) In the case of U.S. army corps of engineers civil works projects, the administrative equivalent of the permits referred to in subdivisions (a) and (b) of this subrule, as provided for in the U.S. army corps of engineers regulations.

(13) The provisions of 40 C.F.R. §261.38, part 280, and part 761 are adopted by reference in R 299.11003.

**R 299.9205 Special requirements for hazardous waste generated by conditionally exempt small quantity generators.**

Rule 205. (1) A generator is a conditionally exempt small quantity generator if, in a calendar month, any of the following provisions apply:

(a) He or she generates less than or equal to 100 kilograms of hazardous waste in that month and does not accumulate, at any time, more than a total of 1,000 kilograms of hazardous wastes.

(b) He or she generates or accumulates, at any time, acute hazardous waste in quantities less than or equal to the following:

(i) A total of 1 kilogram of acute hazardous wastes that are listed in table 203a, 204a, 204b, or 205a of these rules.

(ii) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into water or on any land of any acute hazardous waste that is listed in table 203a, 204a, 204b, or 205a of these rules.

(c) He or she generates or accumulates, at any time, waste that satisfies the criteria of the characteristic of severe toxicity pursuant to R 299.9212(5) in quantities less than or equal to 1 kilogram.

(2) Except as provided in subrules (3), (4), (6), and (7) of this rule, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation pursuant to parts 3 to 10 of these rules if the generator complies with the following requirements:

(a) The waste evaluation requirements specified in R 299.9302.

(b) Either treats or disposes of his or her hazardous waste in an on-site facility or ensures delivery to a facility that will store, treat, or dispose of the waste. If the facility is located in the United States, it shall be in compliance with 1 of the following requirements:

(i) Be permitted or licensed pursuant to part 111 of the act for that waste type or be operating pursuant to R 299.9502(3), (4), or (5).

(ii) Be a facility that stores or treats the waste and which is in compliance with the applicable requirements of parts 31, 55, and 115 of the act.

Be a disposal facility that is in compliance with the applicable requirements of parts 31, 55, and 115 of the act.

(iv) Be a facility that beneficially uses or reuses, or legitimately recycles or reclaims, the waste or treats the waste before the beneficial use or reuse or legitimate recycling or reclamation.

(v) Be an off-site publicly owned treatment works, if the waste is in compliance with all federal, state, and local pretreatment requirements and, if the waste is shipped by vehicle, the conditions of R 299.9503(3)(b) are met.

(vi) Be in another state and be permitted or licensed pursuant to 40 C.F.R. part 270.

(vii) Be in another state and be in interim status pursuant to 40 C.F.R. parts 270 and 265.

(viii) Be in another state and be authorized to manage hazardous waste by the state pursuant to a hazardous waste management program that is approved pursuant to 40 C.F.R. part 271.

(ix) Be in another state and be permitted, licensed, or registered by that state to manage municipal waste which, if managed in a municipal waste landfill, is subject to 40 C.F.R. part 258.

- (x) Be in another state and be permitted, licensed, or registered by that state to manage nonmunicipal waste which, if managed in a nonmunicipal waste disposal unit after the effective date of these rules, is subject to 40 C.F.R. §§257.5 to 257.30.
- (xi) For universal waste managed pursuant to R 299.9228, be a universal waste handler or destination facility in compliance with R 299.9228.
- (c) Accumulates waste in an area where the waste is protected from weather, fire, physical damage, and vandals.
- (d) Hazardous waste accumulation is conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act.
- (3) If a generator exceeds the generation or accumulation limits, or both, specified in subrule (1) of this rule, then the generator and all of the accumulated hazardous wastes are subject to the following provisions:
  - (a) For wastes other than acute or severely toxic hazardous wastes, the special provisions of part 3 of these rules that are applicable to generators that generate between 100 kilograms and 1,000 kilograms of hazardous waste in a calendar month and the other applicable requirements of these rules. The time period specified in R 299.9306 for the accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes are more than 1,000 kilograms.
  - (b) For waste types specified in subrule (1)(b) or (c), or both, of this rule, the requirements of part 3 of these rules that are applicable to generators that generate 1,000 kilograms or more of hazardous waste per calendar month and the other applicable requirements of these rules. The time period specified in R 299.9306 for the accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1 or more of the limits specified in subrule (1)(b) or (c) of this rule.
  - (4) If a person other than the conditionally exempt small quantity generator accumulates hazardous waste generated by a conditionally exempt small quantity generator, then the person and all of the accumulated hazardous wastes shall be in compliance with the following requirements:
    - (a) If the quantity of hazardous wastes, other than acute or severely toxic hazardous wastes, accumulated on-site is more than 1,000 kilograms, the following requirements:
      - (i) Place the waste in containers and comply with 40 C.F.R. part 265, subpart I, except for §265.176, and the containment requirements of 40 C.F.R. §264.175.
      - (ii) Place the waste in tanks and comply with 40 C.F.R. §265.201 and the containment requirements of 40 C.F.R. §§265.191, 265.192, 265.193, and 265.196.
      - (iii) Clearly mark the date upon which each period of accumulation begins and the hazardous waste number of the waste on each container so that the information is visible for inspection.
      - (iv) Ensure that while the waste is being accumulated on-site, each waste container and tank is marked clearly with the words "hazardous waste."
      - (v) Comply with 40 C.F.R. part 265, subpart C.
      - (vi) Ensure that, at all times, there is at least 1 employee either on the premises or on call who is responsible for coordinating all emergency response measures. The employee is the emergency coordinator and, if on call, shall be available to respond to an emergency by reaching the facility within a short period of time.
      - (vii) Post, next to the telephone, the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material and, if present, fire alarm; and the telephone number of the fire department, unless the facility has a direct alarm.
      - (viii) Ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

- (ix) Ensure that the emergency coordinator or his or her designee responds to any emergencies that arise. An emergency coordinator shall respond as follows:
- (A) If there is a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.
  - (B) If there is a spill, contain the flow of hazardous waste to the extent possible and, as soon as is practicable, clean up the hazardous waste and any contaminated materials or soils.
  - (C) If there is a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment or if the generator has knowledge that a spill has reached surface water or groundwater, then the generator shall immediately notify the department's pollution emergency alerting system - telephone number 800-292-4706. For releases that could threaten human health outside the individual site of generation and spills that have reached surface waters, the person shall also immediately notify the national response center at its 24-hour, toll-free number - 800-424-8802. The notifications shall include all of the following information:
    - (1) The name and telephone number of the person who is reporting the incident.
    - (2) The name, address, telephone number, and site identification number of the person accumulating the waste.
    - (3) The date, time, and type of incident.
    - (4) The name and quantity of the material or materials involved and released.
    - (5) The extent of injuries, if any.
    - (6) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.
    - (7) An assessment of actual or potential hazards to human health or the environment.
    - (8) The immediate response action taken.
  - (x) Ensure that the area where the waste is accumulated is protected from weather, fire, physical damage, and vandals.
  - (xi) Ensure that waste accumulation is conducted so hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act.
  - (xii) Except as otherwise noted in this paragraph, ensure that waste is not accumulated on-site for a period of more than 180 days before the waste is recycled, treated, or disposed of pursuant to subrule (2) of this rule. If the person exceeds the 180-day accumulation period, then the person and all of the accumulated waste are subject to the requirements for owners or operators of hazardous waste management facilities. Municipal household waste collection programs may accumulate conditionally exempt small quantity generator waste on-site for not more than 1 year.
  - (xiii) Ensure that the volume of waste being accumulated on-site is not more than 6,000 kilograms before the waste is recycled, treated, or disposed of pursuant to subrule (2) of this rule. If the person exceeds the 6,000-kilograms accumulation limit, then the person and all of the accumulated waste are subject to the requirements for owners or operators of hazardous waste management facilities.
  - (xiv) Within 15 days after accumulating 1,000 kilograms or more of waste, provide the department with a 1-time written notification unless the person already has an site identification number. The notification shall include all of the following information:
    - (A) The names, addresses, and telephone numbers of the owner and operator of the accumulation site.
    - (B) The name, address, and telephone number of the accumulation site.
    - (C) The type of waste accumulated at the site.
    - (D) The quantity of each waste accumulated at the site.
  - (b) If the quantity of acute or severely toxic hazardous wastes accumulated on-site is more than the limits specified in subrule (1)(b) or (c) of this rule, the following requirements:
    - (i) Place the waste in containers and comply with 40 C.F.R. part 265, subpart I, except for §265.176, and the containment requirements of 40 C.F.R. §264.175.

- (ii) Place the waste in tanks and comply with 40 C.F.R. §265.201 and the containment requirements of 40 C.F.R. §§265.191, 265.192, 265.193, and 265.196.
- (iii) The requirements specified in R 299.9205(4)(a)(iii) to (xi).
- (iv) Except as otherwise provided in this paragraph, ensure that waste is not accumulated on-site for a period of more than 90 days before being recycled, treated, or disposed of pursuant to subrule (2) of this rule. If the person exceeds the 90-day accumulation period, then the person and all of the accumulated waste are subject to the requirements for owners or operators of hazardous waste management facilities. Municipal household waste collection programs may accumulate conditionally exempt small quantity generator acute or severely toxic hazardous waste on-site for not more than 1 year.
- (v) Ensure that the volume of waste being accumulated on-site is not more than the limits specified in subrule (1)(b) or (c) of this rule before the waste is recycled, treated, or disposed of pursuant to subrule (2) of this rule. If the person, except for a municipal household waste collection program, exceeds the accumulation limits specified in subrule (1)(b) or (c) of this rule, then the person and all of the accumulated waste are subject to the requirements for owners or operators of hazardous waste management facilities.
- (vi) Notify the department, in writing, within 15 days after accumulating quantities of waste that exceed the limits specified in subrule (1)(b) or (c) of this rule. The notification shall include all of the following information:
  - (A) The names, addresses, and telephone numbers of the owner and operator of the accumulation site.
  - (B) The name, address, and telephone number of the accumulation site.
  - (C) The type of waste accumulated at the site.
  - (D) The quantity of each waste accumulated at the site.
- (5) When making the quantity determinations of this rule and part 3 of these rules, the generator shall include all hazardous waste that he or she generates, except the hazardous waste that meets any of the following criteria:
  - (a) Is exempt from regulation pursuant to R 299.9204(3) to (11), R 299.9206(3), or R 299.9207(1).
  - (b) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment units as defined in part 1 of these rules.
  - (c) Is removed from on-site storage.
  - (d) Is hazardous waste produced by on-site treatment, including reclamation, of his or her hazardous waste if the hazardous waste that is treated was counted once.
  - (e) Is recycled, without prior storage or accumulation, only in an on-site process that is subject to regulation pursuant to R 299.9206(1)(c).
  - (f) Are spent materials that are generated, reclaimed, and subsequently reused on-site, if the spent materials have been counted once.
  - (g) Is used oil and managed pursuant to R 299.9206(4) and R 299.9809 to R 299.9816.
  - (h) Are spent lead-acid batteries managed pursuant to R 299.9804.
  - (i) Is universal waste managed pursuant to R 299.9228.
- (6) Hazardous waste subject to the reduced requirements of this rule may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this rule, unless the mixture meets any of the characteristics of hazardous wastes identified in R 299.9212.
- (7) If a person mixes a waste with a hazardous waste that exceeds a quantity exclusion level of this rule, then the mixture is subject to full regulation.
- (8) If a conditionally exempt small quantity generator's wastes are mixed with used oil, then the mixture is subject to the applicable requirements of R 299.9809 to R 299.9816. Any material produced from the mixture of by processing, blending, or other treatment is also subject to the applicable requirements of R 299.9809 to R 299.9816. Mixtures of a conditionally exempt small quantity generator's halogenated



hazardous waste listed under R 299.9213 or R 299.9214 and used oil are subject to regulation as a hazardous waste.

**R 299.9212 Characteristics of hazardous waste.**

Rule 212. (1) A waste exhibits the characteristic of ignitability and is identified by the hazardous waste number D001 if a representative sample of the waste has any of the following properties:

(a) It is a liquid, other than an aqueous solution produced by a kraft pulp or paper mill that contains less than 24% alcohol by volume or an aqueous solution that contains less than 24% alcohol, by volume, as defined by section 211.117(a)(5) to (7) of the Internal Revenue Code, 27 U.S.C. §211.117(a)(5) to (7), including distilled spirits, wine, and malt beverages, and has a flash point less than 60 degrees Centigrade (140 degrees Fahrenheit), as determined by any of the following test methods:

(i) A Pensky-Martens closed cup tester using the test method specified in ASTM standard D-93-79 or D-93-80, both of which are adopted by reference in R 299.11001.

(ii) A setaflash closed cup tester using the test method specified in ASTM standard D-3278-78, which is adopted by reference in R 299.11001.

(iii) A standard test method for flash point by continuously closed cup tester using the test method specified in ASTM standard D6450-99, which is adopted by reference in R 299.11001.

(iv) An equivalent test method approved by the director, or his or her designee, pursuant to procedures set forth in 40 C.F.R. §§260.20 and 260.21, which are adopted by reference in R 299.11003.

(b) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture, or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.

(c) It is an ignitable compressed gas as defined in 49 C.F.R. §173.115, which is adopted by reference in R 299.11004, and as determined by the test methods described in 49 C.F.R. §173.115 or equivalent test methods approved by the director pursuant to 40 C.F.R. §§260.20 and 260.21.

(d) It is an oxidizer as defined in 49 C.F.R. §173.127, which is adopted by reference in R 299.11004.

(2) A waste exhibits the characteristic of corrosivity and is identified by the hazardous waste number D002 if a representative sample of the waste has either of the following properties:

(a) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using method 9040 in the publication entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," which is adopted by reference in R 299.11005.

(b) It is a liquid and corrodes steel (SAE 1020) at a rate of more than 6.35 mm (0.250 inch) per year at a test temperature of 55 degrees Centigrade (130 degrees Fahrenheit) as determined by the test method specified in the national association of corrosion engineers (NACE) standard TM-01-69, as standardized in method 5.3 of the publication entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," which is adopted by reference in R 299.11005.

(3) A waste exhibits the characteristic of reactivity and is identified by the hazardous waste number D003 if a representative sample of the waste has any of the following properties:

(a) It is normally unstable and readily undergoes violent change without detonating.

(b) It reacts violently with water.

(c) It forms potentially explosive mixtures with water.

(d) When mixed with water, it generates toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment.

(e) It is a cyanide or sulfide-bearing waste that, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, vapors, or fumes in a quantity sufficient to present a danger to human health or the environment.

- (f) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement.
- (g) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.
- (h) It is a forbidden explosive as defined in 49 C.F.R. §173.54, or it meets the definition of a class 1/division 1.1, 1.2, or 1.3 explosive as defined in 49 C.F.R. §173.50, which is adopted by reference in R 299.11004.
- (4) A waste, except manufactured gas plant waste, exhibits the toxicity characteristic if, using the toxicity characteristic leaching procedure, test Method 1311 in the publication entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," which is adopted by reference in R 299.11005, the extract from a representative sample of the waste contains any of the contaminants listed by the administrator or the director and identified in table 201a of these rules at a concentration equal to or greater than the respective values given in the tables. If the waste contains less than 0.5% filterable solids, then the waste itself, after filtering using the methodology outlined in method 1311, is considered to be the extract for the purposes of this rule.
- (5) A waste exhibits the characteristic of severe toxicity if the waste contains 1 part per million or more of a severely toxic substance listed in table 202.
- (6) A hazardous waste that is identified by a characteristic in this rule shall be assigned every hazardous waste number that is applicable. The hazardous waste number or numbers shall be used in complying with the notification, recordkeeping, and reporting requirements of these rules. The hazardous waste numbers are as follows:
  - (a) For wastes determined to be hazardous pursuant to subrules (4) and (5) of this rule, the hazardous waste number listed in table 201a or table 202 of these rules.
  - (b) For a waste that exhibits the characteristic of ignitability, the hazardous waste number D001.
  - (c) For a waste that exhibits the characteristic of corrosivity, the hazardous waste number D002.
  - (d) For a waste that exhibits the characteristic of reactivity, the hazardous waste number D003.
- (7) For the purposes of this rule, the director, or his or her designee, shall consider a sample that is obtained using any of the applicable sampling methods specified in 40 C.F.R. part 261, appendix I, which is adopted by reference in R 299.11003, to be a representative sample.
- (8) The following test methods shall be used:
  - (a) For aflatoxin, the test methods set forth in subsection 26, natural poisons, of the publication entitled "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th edition, 1980, which is adopted by reference in R 299.11006.For chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans in chemical wastes, including still bottoms, filter aids, sludges, spent carbon, and reactor residues, and in soil, EPA method 8280 in the publication entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," which is adopted by reference in R 299.11005.
- (c) Alternate procedures as approved by the director or his or her designee.
- (9) The provisions of 40 C.F.R. §§260.20 and 260.21 are adopted by reference in R 299.11003.

**R 299.9220 Table 203a; hazardous waste from nonspecific sources.**

Rule 220. Table 203a reads as follows:

Table 203a

EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures and blends used in degreasing containing, before use, a total of 10% or more, by volume, of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane; all spent solvent mixtures and blends containing, before use, a total of 10% or more, by volume, of one or more of the above halogenated solvents or those solvents listed in F001, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F003	The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures and blends containing, before use, only the above spent nonhalogenated solvents; and all spent solvent mixtures or blends, containing before use, one or more of the above nonhalogenated solvents, and a total of 10% or more, by volume, of one or more of those solvents listed in F001, F002, F004, and F005 and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(I)
F004	The following spent nonhalogenated solvents: cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures and blends containing, before use, a total of 10% or more, by volume, of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	(T)
F005	The following spent nonhalogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent	(I,T)

EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
	mixtures and blends containing, before use, a total of 10% or more, by volume, of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002 and F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures	

EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating used on a segregated basis on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning or stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum	(T)
F007	Spent cyanide plating bath solutions from electroplating operations	(R,T)
F008	Plating sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process	(R,T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process	(R,T)
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process	(R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat-treating operations	(R,T)
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process	(T)
F020	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process, of tri- or tetrachlorophenol or of intermediates used to produce their pesticide derivatives. This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol	(H)
F021	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of pentachlorophenol or of intermediates used to produce its derivatives	(H)
F022	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tetra-, penta-, or hexachlorobenzenes under alkaline	(H)

	conditions	
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EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
F023	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production of materials on equipment previously used for the production or manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tri- and tetrachlorophenols. This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol	(H)
F024	Process wastes, including, but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from 1 to 5, with varying amounts and positions of chlorine substitutions. This listing does not include wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in R 299.9213(1)(a) or R 299.9214(1)(a)	(T)
F025	Condensed light ends, spent filters and filter acids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from 1 to 5, with varying amounts and positions of chlorine substitution	(T)
F026	Wastes, except wastewater and spent carbon from hydrogen chloride purification, from the production of materials on equipment previously used for the manufacturing use as a reactant, chemical intermediate, or component in a formulating process of tetra-, penta-, or hexachlorobenzene under alkaline conditions	(H)
F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulation containing compounds derived from these chlorophenols. This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component	(H)
F028	Residues resulting from the incineration or thermal treatment of soil contaminated with EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027	(T)

EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
F032	Wastewaters, except for those that have not come into contact with process contaminants; process residuals; preservative drippage; and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations, except potentially cross-contaminated wastes that have had the F032 hazardous waste number deleted pursuant to 40 C.F.R. §261.35 or potentially cross-contaminated wastes that are otherwise currently regulated as F034 or F035, and where the generator does not resume or initiate the use of chlorophenolic formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both.	(T)
F034	Wastewaters, except for those that have not come into contact with process contaminants; process residuals; preservative drippage; and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both.	(T)
F035	Wastewaters, except for those that have not come into contact with process contaminants; process residuals; preservative drippage; and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote or pentachlorophenol, or both.	(T)

EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
F037	Petroleum refinery primary oil/water/solids (oil and/or water and/or solids) separation sludge-any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oil cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludges generated in stormwater units that do not receive dry weather flow.	(T)



EPA Hazardous Waste Number	Hazardous Waste From Nonspecific Sources	Hazard Code
	sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in R 299.9213(4), including sludges generated in 1 or more additional units after wastewaters have been treated in aggressive biological treatment units, and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under R 299.9204(1)(l) if those residuals are being disposed.	
F038	Petroleum refinery secondary (emulsified) oil/water/solids (oil and/or water and/or solids) separation sludge-any sludge or float generated from the physical or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in induced air flotation (IAF) units and tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow; sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters; sludges and floats generated in aggressive biological treatment units as defined in R 299.9213(4), including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units; and F037, K048, and K051 wastes are not included in this listing.	(T)
F039	Leachate resulting from the treatment, storage, or disposal of wastes classified by more than 1 hazardous waste number pursuant to R 299.9213 and R 299.9214 or from a mixture of wastes classified pursuant to R 299.9213 and R 299.9214. Leachate resulting from the management of 1 or more of the following hazardous wastes, and no other hazardous wastes, retains its original hazardous waste number or numbers: F020, F021, F022, F023, F026, F027, or F028.	(T)

**R 299.9222 Table 204a; hazardous wastes from specific sources.**

Rule 222. Table 204a reads as follows:

Table 204a

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
Wood	K001	Bottom sediment sludge from the treatment	(T)

Preservation		of wastewaters from wood-preserving processes that use creosote or pentachlorophenol, or both of these compounds	
Inorganic Pigments	K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments	(T)
	K003	Wastewater treatment sludge from the production of molybdate orange pigments	(T)
	K004	Wastewater treatment sludge from the production of zinc yellow pigments	(T)
	K005	Wastewater treatment sludge from the production of chrome green pigments	(T)
	K006	Wastewater treatment sludge from the production of chrome oxide green pigments, anhydrous and hydrated forms	(T)
	K007	Wastewater treatment sludge from the production of iron blue pigments	(T)
	K008	Oven residue from the production of chrome oxide green pigments	(T)
Organic Chemicals	K009	Distillation bottoms from the production of chemicals acetaldehyde from ethylene	(T)
	K010	Distillation side cuts from the production of acetaldehyde from ethylene	(T)
	K011	Bottom stream from the wastewater stripper in the production of acrylonitrile	(R,T)
	K013	Bottom stream from the acetonitrile column in the production of acrylonitrile	(R,T)
	K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile	(T)
	K015	Still bottoms from the distillation of benzyl chloride	(T)
	K016	Heavy ends or distillation residues from the production of carbon tetrachloride	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
	K017	Heavy ends or still bottoms from the purification column in the production of epichlorohydrin	(T)
	K018	Heavy ends from the fractionation column in ethyl chloride production	(T)
	K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production	(T)
	K020	Heavy ends from the distillation of vinyl	(T)

	chloride in vinyl chloride monomer production	
K021	Aqueous spent antimony catalyst waste from fluoromethanes production	(T)
K022	Distillation bottom tars from the production of phenol or acetone from cumene	(T)
K023	Distillation light ends from the production of phthalic anhydride from naphthalene	(T)
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene	(T)
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene	(T)
K026	Stripping still tails from the production of methyl ethyl pyridines	(T)
K027	Centrifuge and distillation residues from toluene diisocyanate production	(R,T)
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane	(T)
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane	(T)
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene	(T)
K083	Distillation bottoms from aniline production	(T)
K085	Distillation of fractionation column bottoms from the production of chlorobenzenes	(T)
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene	(T)
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene	(T)
K095	Distillation bottoms from the production of 1,1,1-trichloroethane	(T)
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
	K103	Process residues from aniline extraction from the production of aniline	(T)
	K104	Combined wastewater streams generated from nitrobenzene or aniline production	(T)
	K105	Separated aqueous stream from the reactor	(T)

	product washing step in the production of chlorobenzenes	
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides	(C,T)
K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides	(I,T)
K109	Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides	(T)
K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides	(T)
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene	(C,T)
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene	(T)
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
	K117	Wastewater from the reactor vent gas scrubber in the production of ethylene	(T)

	dibromide via bromination of ethane	
K118	Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene	(T)
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene	(T)
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. This waste does not include still bottoms from the distillation of benzyl chloride.	(T)
K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups	(T)
K151	Wastewater treatment sludges, excluding *neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups	(T)
K156	Organic waste, including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates, from the production of carbamates and carbamoyl oximes. This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.	(T)
K157	Wastewaters, including scrubber waters, condenser waters, washwaters, and separation waters, from the production of carbamates and carbamoyl oximes. This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
	K158	Baghouse dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.	(T)
	K159	Organics from the treatment of thiocarbamate wastes	(T)
	K161	Purification solids, including filtration, evaporation, and centrifugation solids, bag house dust, and floor sweepings from the production of dithiocarbamates acids and their salts. This listing does not include K125 or K126.	(R,T)
	K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer, including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater, unless the sludges meet the following conditions: (1) they are disposed of in a hazardous waste landfill or a nonhazardous waste landfill licensed or permitted by the state or federal government, (2) they are not otherwise placed on the land before final disposal, and (3) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of rcra or part 111 of the act must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth herein. in doing so, they must provide appropriate documentation, such as contracts between the generator and the landfill	(T)

		owner/operator or invoices documenting delivery of the waste to the landfill, that the terms of the exclusion were met.	
	K175	Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
Inorganic Chemicals	K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used	(T)
	K073	Chlorinated hydrocarbon wastes from the purification step of the diaphragm cell process using graphite anodes in chlorine production	(T)
	K106	Wastewater treatment sludge from the mercury cell process in chlorine production	(T)
	K176	Baghouse filters from the production of antimony oxide, including filters from the production of intermediates	(E)
	K177	Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates	(T)
	K178	Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process	(T)
Pesticides	K031	By-product salts generated in the production of MSMA and cacodylic acid	(T)
	K032	Wastewater treatment sludge from the production of chlordane	(T)
	K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane	(T)
	K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane	(T)
	K035	Wastewater treatment sludges generated in the production of creosote	(T)
	K036	Still bottoms from toluene reclamation distillation in the production of disulfoton	(T)
	K037	Wastewater treatment sludges from the	(T)

		production of disulfoton	
	K038	Wastewater from the washing and stripping of phorate production	(T)
	K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
	K040	Wastewater treatment sludge from the production of phorate	(T)
	K041	Wastewater treatment sludge from the production of toxaphene	(T)
	K042	Heavy ends of distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T	(T)
	K043	2,6-Dichlorophenol waste from the production of 2,4-D	(T)
	K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane	(T)
	K098	Untreated process wastewater from the production of toxaphene	(T)
	K099	Untreated wastewater from the production of 2,4-D	(T)
	K123	Process wastewater, including supernates, filtrates, and washwaters, from the production of ethylenebisdithiocarbamic acid and its salt	(T)
	K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salt	(C,T)
	K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salt	(T)
	K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts	(T)
	K131	Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide	(C,T)
	K132	Spent absorbent and wastewater separator solids from the production of methyl bromide	(T)
Explosives	K044	Wastewater treatment sludges from the	(I)



		manufacturing and processing of explosives	
	K045	Spent carbon from the treatment of wastewater containing explosives	(I)
	K046	Wastewater treatment sludges from the manufacturing, formulation, and loading of lead-based initiating compounds	(T)
	K047	Pink or red water from TNT operations	(I)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
Petroleum Refining	K048	Dissolved air floatation, DAF, float from the petroleum refining industry	(T)
	K049	Slop oil emulsion solids from the petroleum refining industry	(T)
	K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry	(T)
	K051	API separator sludge from the petroleum refining industry	(T)
	K052	Tank bottoms, leaded, from the petroleum refining industry	(T)
	K169	Crude oil storage tank sediment from petroleum refining operations	(T)
	K170	Clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations	(T)
	K171	Spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors. This listing does not include inert support media.	(I, T)
	K172	Spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors. This listing does not include inert support media.	(I, T)
Iron and Steel	K061	Emission control dust or sludge from the primary production of steel in electric furnaces	(T)
	K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry	(C,T)
Primary Aluminum	K088	Spent potliners from primary aluminum reduction	(T)
Secondary Lead	K069	Emission control dust or sludge from secondary lead smelting	(T)

	K100	Waste leaching solution from acid leaching of emission control dust sludge from secondary lead smelting	(T)
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Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
Veterinary Pharmaceuticals	K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
	K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
	K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds	(T)
Ink Formulation	K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead	(T)
Coking	K060	Ammonia still lime sludge from coking operations	(T)
	K087	Decanter tank tar sludge from coking operations	(T)
	K141	Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke from coal or the recovery of coke by-products produced from coal. This listing does not include K087.	(T)
	K142	Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal	(T)
	K143	Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal	(T)
	K144	Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges	(T)

		from the recovery of coke by-products produced from coal	
	K145	Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal	(T)

Industry	EPA Hazardous Waste Number	Hazardous Waste From Specific Sources	Hazard Code
	K147	Tar storage tank residues from coal tar refining	(T)
	K148	Residues from coal tar distillation, including, but not limited to, still bottoms	(T)

**R 299.9226 Table 205c; discarded commercial chemical products; off-specification species; container residues; and spill residues thereof as toxic hazardous wastes.**

Rule 226. Table 205c reads as follows:

Table 205C

Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
001U	50-76-0	Actinomycin D	
002U	107-05-1	Allyl chloride	
003U	117-79-3	2-aminoanthraquinone	
004U	60-09-3	Aminoazobenzene	
005U	97-56-3	0-aminoazotoluene	
006U	92-67-1	4-aminobiphenyl	
007U	132-32-1	3-amino-9-ethyl carbazole	
157U	57360-17-5	3-amino-9-ethyl carbazole hydrochloride	
008U	82-28-0	1-amino-2-methyl anthraquinone	
009U	101-05-3	Anilazine	
158U	142-04-1	Aniline hydrochloride	
011U	90-04-0	o-Anisidine	
012U	134-29-2	o-Anisidine hydrochloride	
013U	Class-01-0	Antimony (when in the form of particles 100 microns or less)	
014U	1397-94-0	Antimycin A	
147U	2642-71-9	Azinphos-ethyl	
148U	86-50-0	Azinphos-methyl	
159U	103-33-3	Azobenzene	
015U	101-27-9	Barban	
016U	22781-23-3	Bendiocarb	
017U	17804-35-2	Benomyl	

020U	1689-84-5	Bromoxynil	
160U	106-99-0	1,3-Butadiene	
161U	85-68-7	Butyl benzl phthalate	

Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
022U	2425-06-1	Captafol	
023U	133-06-2	Captan	
024U	63-25-3	Carbaryl	
025U	1563-66-2	Carbofuran	
027U	786-19-6	Carbophenothion	
028U	Class-08-6	Chloramines	
152U	470-90-6	Chlorfenuinphos	
029U	2921-88-2	Chloropyrifos	
030U	Class-05-3	Chlorinated dibenzofurans (other than those listed in Table 202)	
031U	Class-05-4	Chlorinated dioxins (other than those listed in Table 202)	
032U	7782-50-5	Chlorine gas	
033U	107-07-3	2-Chloroethanol	
034U	6959-48-4	3-(Chloromethyl) pyridine hydrochloride	
150U	106-48-9	p-chlorophenol	
162U	7005-72-3	1-chloro-4-phenoxybenzene	
036U	5131-60-2	4-chloro-m-phenylenediamine	
037U	95-83-0	4-chloro-o-phenylenediamine	
038U	126-99-8	Chloroprene	
163U	590-21-6	1-chloropropene	
151U	96-79-4	5-chloro-o-toluidene	
040U	1420-04-8	Clonitralid	
041U	Class-01-6	Cobalt (when in the form of particles 100 microns or less)	
042U	56-72-4	Coumasphos	
043U	120-71-8	p-Cresidine	
044U	7700-17-6	Crotoxyphos	
046U	66-81-9	Cycloheximide	
164U	72-55-9	P,P' DDE	

Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
048U	39156-41-7	2,4-Diaminoanisoole sulfate	
049U	101-80-4	4,4'-Diaminodiphenyl ether	
050U	95-80-7	2,4-Diaminotoluene	
051U	333-41-5	Diazinon	
052U	117-80-6	Dichlone	
054U	62-73-7	Dichlorvos	
055U	141-66-2	Dichrotophos	
056U	64-67-5	Diethyl sulfate	
165U	105-55-5	N,N'-Diethylthiourea	
057U	39300-45-3	Dinocap	
058U	78-34-2	Dioxathion	
059U	2104-64-5	EPN	
166U	106-88-7	1,2-Epoxybutane	
061U	563-12-2	Ethion	
063U	115-90-2	Fensulfothion	
064U	55-38-9	Fenthion	
065U	33245-39-5	Fluchloralin	
068U	680-31-9	Hexamethyl phosphoramidate	
070U	123-31-9	Hydroquinone	
071U	1072-52-2	N-(2-Hydroxyethyl) ethyleneimine	
072U	14380-61-1	Hypochlorite	
073U	54-85-3	Isonicotinic acid hydrazine	
167U	59299-51-3	Kanechlor C	
074U	463-51-4	Ketene	
075U	78-97-7	Lactonitril	
076U	21609-90-5	Leptophos	
077U	Class-02-0	Lithium and compounds	
078U	569-64-2	Malachite green	
079U	121-75-5	Malathion	

Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
082U	838-88-0	4,4'-Methylenebis(2-methylaniline)	
083U	101-61-1	4,4'-Methylenebis(N,N-dimethylaniline)	
086U	90-12-0	1-Methylnaphthalene	
088U	7786-34-7	Mevinphos	
089U	315-18-4	Mexacarbate	
090U	2385-85-5	Mirex	
092U	6923-22-4	Monocrotophos	
093U	505-60-2	Mustard gas	
094U	300-76-5	Naled	
095U	2243-62-1	1,5-Napthalenediamine	
096U	Class-02-2	Nickel (when in the form of particles 100 microns or less)	
097U	61-57-4	Niridazole	
098U	139-94-6	Nithiazide	
099U	602-87-9	5-Nitroacenaphthene	
100U	99-59-2	Nitro-o-anisidine	
101U	92-93-3	4-Nitrobiphenyl	
102U	1836-75-5	Nitrofen	
103U	531-82-8	N-(4-(5-nitro-2-furanyl)-2-thiazolyl)-acetamide	
104U	51-75-2	Nitrogen mustard	
106U	156-10-5	p-Nitrosodiphenylamine	
168U	4549-40-0	N-Nitrosomethylvinylamine	
108U	135-20-6	N-nitroso-N-phenylhydroxylamine, ammonium salt	
169U	29082-74-4	Octachlorostyrene	
110U	301-12-2	Oxydemeton-methyl	
111U	1910-42-5	Paraquat dichloride	
112U	79-21-0	Peroxyacetic acid	
113U	136-40-3	Phenazopyridine hydrochloride	

Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
115U	50-06-6	Phenobarbitol	
116U	57-41-0	Phenytoin	
117U	630-93-3	Phenytoin sodium	
118U	4104-14-7	Phosazetim	
119U	732-11-6	Phosmet	
120U	13171-21-6	Phosphamidon	
121U	120-62-7	Piperonyl sulfoxide	
122U	Class-07-8	Polybrominated biphenyls (PBB)	
124U	57-57-8	Propiolactone	
127U	51-52-5	Propylthiouracil	
128U	83-749-4	Rotenone	
129U	57-56-7	Semicarbazide	
170U	563-41-7	Semicarbazide hydrochloride	
153U	62-74-8	Sodium fluoroacetate	
131U	100-42-5	Styrene	
132U	95-06-7	Sulfallate	
134U	72-54-8	TDE	
135U	107-49-3	TEPP	
136U	13071-79-9	Terbufos	
137U	961-11-5	Tetrachlorvinphos	
138U	139-65-1	4,4'-Thiodianiline	
139U	95-53-4	o-Toluidine	
140U	Class-08-4	Triaryl phosphate esters	
154U	56-35-9	Bis(tri-n-butyl tin) oxide	
171U	688-73-3	Tributyltin (and other salts and esters)	
172U	87-61-6	1,2,3-Trichlorobenzene	
173U	120-82-1	1,2,4-Trichlorobenzene	
141U	52-68-6	Trichlorfon	
142U	1582-09-8	Trifluralin	
143U	137-17-7	2,4,5-Trimethylaniline	

Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
174U	51-79-6	Urethane	
175U	593-60-2	Vinyl bromide	
155U	75-35-4	Vinylidene chloride	
146U	137-30-4	Ziram	

**R 299.9228 Universal wastes.**

Rule 228. (1) This rule provides an alternate set of standards under which universal wastes may be managed instead of full regulation as hazardous waste under these rules. The requirements of this rule apply to the universal wastes identified in this subrule and to persons managing the universal wastes. Universal wastes that are not managed pursuant to this rule are subject to full regulation as hazardous waste under these rules. Except as provided in subrule (2) of this rule, all of the following universal wastes are exempt from full regulation as hazardous waste under these rules if they are managed pursuant to the requirements of this rule:

- (a) A battery, including a spent lead-acid battery that is not managed pursuant to R 299.9804.
- (b) A pesticide, including both of the following:
  - (i) A recalled pesticide, including the following:
    - (A) A stock of a suspended and cancelled pesticide that is part of a voluntary or mandatory recall under section 19(b) of the federal insecticide, fungicide, and rodenticide act, including, but not limited to, a stock owned by the registrant responsible for conducting the recall.
    - (B) A stock of a suspended or cancelled pesticide, or of a pesticide that is not in compliance with the federal insecticide, fungicide, and rodenticide act, that is part of a voluntary recall by the registrant.
  - A stock of an unused pesticide product other than a product specified in subrule (1)(b)(i) of this rule that is collected and managed as part of a waste pesticide collection program.
- (c) A thermostat.
- (d) A mercury switch.
- (e) A mercury thermometer.
- (f) A waste device which contains only elemental mercury as the hazardous waste constituent.
- (g) An electric lamp.
- (h) A pharmaceutical.
- (i) Consumer electronics.

(2) The requirements of this rule do not apply to the following:

- (a) A spent lead-acid battery that is managed pursuant to R 299.9804.
- (b) A battery that is not a waste under part 2 of these rules. A used battery becomes a waste when it is discarded. An unused battery becomes a waste on the date the universal waste handler decides to discard it.
- (c) A battery that is not hazardous waste. A battery is a hazardous waste if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.
- (d) A pesticide identified in subrule (1) of this rule that is managed by farmers in compliance with R 299.9204(3)(b).
- (e) A pesticide that does not meet the requirements in subrule (1) of this rule. The pesticide shall be managed pursuant to parts 2 to 8 of these rules.
- (f) A pesticide that is not a waste under part 2 of these rules. A recalled pesticide becomes a waste on the first date on which the generator of the pesticide agrees to participate in the recall and the person conducting the recall decides to discard the pesticide. An unused pesticide becomes a waste on the date that the generator decides to discard it. The following pesticides are not wastes:
  - (i) A recalled pesticide if the person conducting the recall is in compliance with either of the following provisions:
    - (A) The person has not made a decision to discard the pesticide. Until a decision is made, the pesticide does not meet the definition of a waste pursuant to R 299.9202 and, therefore, is not considered a hazardous waste subject to regulations under these rules. The pesticide remains subject to the requirements of the federal insecticide, fungicide, and rodenticide act.



- (B) The person has made a decision to use a management option that does not result in the pesticide meeting the definition of a waste pursuant to R 299.9202. The pesticide, including a recalled pesticide that is exported to a foreign destinations for use or reuse, remains subject to the requirements of the federal insecticide, fungicide, and rodenticide act.
- (ii) An unused pesticide product if the generator of the unused pesticide product has not decided to discard the product. The pesticide product remains subject to the requirements of the federal insecticide, fungicide, and rodenticide act.
- (g) A pesticide that is not hazardous waste. A pesticide is a hazardous waste if it is listed pursuant to R 299.9213 or R 299.9214 or if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.
- (h) A thermostat, mercury switch, mercury thermometer, or a waste device which contains only elemental mercury as the hazardous waste constituent that is not a waste under part 2 of these rules. A used thermostat, mercury switch, mercury thermometer, or a used waste device which contains only elemental mercury as the hazardous waste constituent becomes a waste on the date it is discarded. An unused thermostat, mercury switch, mercury thermometer, and an unused waste device which contains only elemental mercury as the hazardous waste constituent becomes a waste on the date that the universal waste handler decides to discard it.
- (i) A thermostat, mercury switch, mercury thermometer, and a waste device which contains only elemental mercury as the hazardous waste constituent that is not hazardous waste. A thermostat, mercury switch, mercury thermometer, and a waste device which contains only elemental mercury as the hazardous waste constituent is a hazardous waste if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.
- (j) An electric lamp that is not a waste under part 2 of these rules. A used electric lamp becomes a waste on the date that the universal waste handler permanently removes it from its fixture. An unused electric lamp becomes a waste on the date that the universal waste handler decides to discard it.
- (k) An electric lamp that is not a hazardous waste. An electric lamp is a hazardous waste if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.
- (l) A pharmaceutical that is not a waste under part 2 of these rules. An unused pharmaceutical becomes a waste on the date that the universal waste handler decides to discard it.
- (m) A pharmaceutical that is not a hazardous waste. A waste pharmaceutical is a hazardous waste if it is listed under R 299.9213 or R 299.214 or if it exhibits 1 or more hazardous waste characteristics under R 299.9212.
- (n) Consumer electronics that are not a waste under part 2 of these rules. A consumer electronic becomes a waste on the date that the universal waste handler decides to discard it.
- (o) Consumer electronics that are not a hazardous waste. A consumer electronic is a hazardous waste if it is listed under R 299.9213 or R 299.214 or if it exhibits 1 or more hazardous waste characteristics under R 299.9212.
- (3) A person that manages household wastes that are exempt from regulation pursuant to R 299.9204(2)(a) and are also of the same type as the universal wastes identified in subrule (1) of this rule or conditionally exempt small quantity generator wastes that are exempt from regulation pursuant to R 299.9205 and are also of the same type as the universal wastes identified in subrule (1) of this rule may, at the person's option, manage the wastes pursuant to this rule. A person who commingles household wastes or conditionally exempt small quantity generator wastes with universal waste regulated pursuant to this rule shall manage the commingled waste under the requirements of this rule.
- (4) A universal waste small quantity handler shall comply with all of the following requirements:
- (a) The requirements of 40 C.F.R. part 273, subpart B, except §§273.10 and 273.18(b).

- (b) If the universal waste small quantity handler is self-transporting universal waste off-site, then the handler becomes the universal waste transporter for the self-transportation activities and shall comply with the requirements of subrule (6) of this rule while transporting the universal wastes.
- (c) If the universal waste small quantity handler handles electric lamps, then all of the following additional requirements apply:
- (i) The lamps shall not be crushed or broken.
  - (ii) The lamps shall be managed in a manner that prevents breakage or the release of any universal waste or components of universal waste by containing unbroken lamps in structurally sound packaging that is compatible with the contents of the lamps and will prevent breakage during normal handling conditions. The packaging shall remain closed and lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - (iii) All of the following shall be done with respect to a release of universal waste or components of a universal waste, including lamp fragments or residues, and all lamps that show evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment:
    - (A) The release of universal waste or components of a universal waste, including lamp fragments or residues, and all lamps that show evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment shall be immediately contained in packaging that is structurally sound and compatible with the contents of the lamps. The packaging shall remain closed once the material has been contained and shall lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.
    - (B) A determination shall be made whether any of the materials resulting from the release or the lamps that show evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment are hazardous waste, and if the released materials or lamps are hazardous waste, then the released materials shall be managed pursuant to the applicable requirements of the act and these rules.
  - (iv) The lamps or packaging in which the lamps are contained shall be labelled with the words "universal waste electric lamps," "waste electric lamps," or "used electric lamps."
- (d) If the universal waste small quantity handler handles mercury switches, mercury thermometers, or waste devices which contain only elemental mercury as the hazardous waste constituent, then 40 C.F.R. §273.13(c) shall be applicable to the mercury switches, mercury thermometers, and waste devices which contain only elemental mercury as the hazardous waste constituent.
- (e) If the universal waste small quantity handler manages pharmaceuticals, then all of the following additional requirements shall apply:
- (i) The pharmaceuticals shall be managed in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The pharmaceuticals shall be contained in a container that remains closed, except to add or remove universal waste, is structurally sound, is compatible with the pharmaceutical, and lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable circumstances, or if the container does not meet these conditions, is overpacked in a container that does meet these conditions.
  - (ii) If a release of pharmaceuticals or component of pharmaceuticals occurs, the release shall be immediately cleaned up and properly characterized for disposal.
  - (iii) A universal waste handler may disassemble packaging and sort pharmaceuticals.
  - (iv) Incompatible pharmaceuticals shall be segregated. Adequate distance shall be employed to prevent the contact of incompatible materials.
- (f) If the universal waste small quantity handler manages consumer electronics, then all of the following additional requirements apply:

- (i) The consumer electronics shall be managed in a manner that prevents breakage or the release of any universal waste or components of universal waste by containing the consumer electronics in packaging that will prevent breakage during normal handling conditions.
- (ii) Label the outer packaging or container with the words "universal waste consumer electronics" or "universal waste electronics."
- (iii) Properly contain, classify, and dispose of releases and potential releases of consumer electronics and residues.
- (g) A universal waste small quantity handler handling consumer electronics may perform any of the following activities and shall still be regulated as a universal waste small quantity handler:
  - (i) Repair the consumer electronics for potential direct reuse.
  - (ii) Remove other universal wastes from the consumer electronics.
  - (iii) Remove individual modular components for direct reuse.
- (5) A universal waste large quantity handler shall comply with all of the following requirements:
  - (a) Maintain the universal waste large quantity handler designation through the end of the calendar year in which a total of 5,000 kilograms or more of universal waste is accumulated.
  - (b) The requirements of 40 C.F.R. part 273, subpart C, except §§273.30 and 273.38(b).
  - (c) If the universal waste large quantity handler is self-transporting universal waste off-site, then the handler becomes the universal waste transporter for the self-transportation activities and shall comply with the requirements of subrule (6) of this rule while transporting the universal wastes.
  - (d) If the universal waste large quantity handler handles electric lamps, all of the additional requirements of subrule (4)(c) of this rule.
  - (e) If the universal waste large quantity handler handles mercury switches, mercury thermometers, or waste devices which contain only elemental mercury as the hazardous waste constituent, then 40 C.F.R. §273.33(c) shall be applicable to the mercury switches, mercury thermometers, and waste devices which contain only elemental mercury as the hazardous waste constituent.
  - (f) If the universal waste large quantity handler handles pharmaceuticals, all of the additional requirements of subrule (4)(e) of this rule.
  - (g) If the universal waste large quantity handler handles consumer electronics, all of the additional requirements of subrules (4)(f) and (g) of this rule.
- (6) A universal waste transporter shall comply with both of the following requirements:
  - (a) The requirements of 40 C.F.R. part 273, subpart D, except §§273.50 and 273.53.
  - (b) Store universal wastes at a universal waste transfer facility for 10 days or less. If the transporter stores universal wastes for more than 10 days, then the transporter becomes a universal waste handler and shall comply with the applicable requirements of subrules (4) and (5) of this rule while storing the universal wastes.
- (7) Except as provided for in subrules (8) and (9) of this rule, an owner or operator of a destination facility shall comply with all of the following requirements:
  - (a) The requirements of parts 5 to 8 of these rules and the notification requirements under section 3010 of RCRA.
  - (b) The requirements of 40 C.F.R. §§273.61 and 273.62.
  - (c) The requirements of the act and these rules if the owner or operator generates waste as a result of recycling universal waste.
- (8) An owner or operator of a destination facility that recycles a particular universal waste without storing the universal waste before recycling shall comply with R 299.9206(1)(c).
- (9) An owner or operator of a destination facility that stores electric lamps before recycling the electric lamps at the facility shall comply with R 299.9206(5).

(10) A person who manages universal waste that is imported from a foreign country into the United States shall comply with the following applicable requirements immediately after the universal waste enters the United States:

- (a) The requirements of subrule (4) of this rule if a small quantity handler of universal waste.
  - (b) The requirements of subrule (5) of this rule if a large quantity handler of universal waste.
  - (c) The requirements of subrule (6) of this rule if a transporter of universal waste.
  - (d) The requirements of subrules (7) to (9) of this rule if a universal waste destination facility.
  - (e) The requirements of this rule and R 299.9312 if managing universal waste that is imported from an organization for economic cooperation and development country specified in 40 C.F.R. §262.58(a)(1).
- (11) The provisions of 40 C.F.R. part 273, subparts B to E, except §§273.10, 273.18(b), 273.30, 273.38(b), 273.50, 273.53, and 273.60, are adopted by reference in R 299.11003. For the purposes of the adoption of these provisions, the term "department" shall replace the term "EPA," except in 40 C.F.R. §§273.20(b) and (c), 273.32(a)(3), 273.40 (b) and (c), and 273.56, the term "director" shall replace the term "regional administrator," the term "R 299.9212" shall replace the term "40 CFR part 261, subpart C," the term "R 299.9306" shall replace the term "40 CFR 262.34," the term "part 3 of these rules" shall replace the term "40 CFR part 262," and the term "parts 2 to 8 of these rules" shall replace the term "40 CFR parts 260 through 272."

### **PART 3. GENERATORS OF HAZARDOUS WASTE**

#### **R 299.9303 Site identification numbers.**

Rule 303. (1) A generator shall not treat or store, dispose of, or transport or offer for transportation, hazardous waste without having received a site identification number from the regional administrator or the regional administrator's designee.

(2) A generator who has not received a site identification number may obtain one by applying to the regional administrator or the regional administrator's designee. Upon receiving the request, the administrator shall assign a site identification number to the generator.

(3) A generator shall not offer his or her hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received a site identification number.

(4) Applications for site identification numbers shall be made on state form EQP5150 and signed pursuant to 40 C.F.R. §270.11(a)(1) to (3).

#### **R 299.9304 Manifest requirements.**

Rule 304. (1) A hazardous waste generator who transports, or offers for transportation, a hazardous waste for off-site treatment, storage, or disposal shall do all of the following:

- (a) Prepare a manifest before transporting the waste off-site.
  - (b) Designate on the manifest 1 facility that is licensed to handle the waste described on the manifest. A generator may also designate on the manifest 1 alternate facility that is licensed to handle his or her waste if an emergency prevents delivery of the waste to the primary designated facility.
  - (c) Use a transporter or be a transporter, if a generator transports his or her own hazardous waste, who is registered and permitted pursuant to Act 138 pursuant to part 4 of these rules.
  - (d) If the transporter is unable to deliver the hazardous waste to the designated facility, the generator shall either designate another facility or instruct the transporter to return the waste. For a total or partial rejected shipment, the generator shall comply with the subrule (7) of this rule.
- (2) Except as otherwise provided by subrule (3) of this rule, the generator shall use a manifest form which is approved by the director and which contains all of the following information:
- (a) A manifest document number.

- (b) The generator's name, mailing address, telephone number, and site identification number.
- (c) The name and site identification number of each transporter.
- (d) The name, address, and site identification number of the designated facility and an alternate facility, if any.
- (e) The description of the waste required by regulations of the DOT in 49 C.F.R. §§172.101, 172.202, and 172.203, which are adopted by reference in R 299.11004.
- (f) The total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle.
- (g) The hazardous waste number describing the waste.
- (h) The following certification: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations."
- (i) Other certification statements required by the director based on requirements under title II of the solid waste disposal act.
- (3) If a generator manifests a shipment of hazardous waste out-of-state, and if the state to which the shipment is manifested requires the use of another manifest, then the generator shall use that manifest.
- (4) The generator shall do all of the following with respect to the manifest:
  - (a) Sign the manifest certification by hand.
  - (b) Obtain the handwritten signature of the initial transporter and the date of acceptance on the manifest.
  - (c) Retain 1 copy pursuant to R 299.9307(3).
  - (d) Submit 1 copy to the director or his or her designee, which shall be postmarked not later than 10 days after the month in which shipment was made.
  - (e) Give the remaining copies to the transporter.
  - (f) For all out-of-state shipments, submit 1 copy of the second generator copy of the manifest which is returned to the generator by the facility, to the director or his or her designee. The second generator copy of the manifest shall be submitted to the director or his or her designee within 10 days after the month in which the copy was received by the generator as specified in R 299.9308.
  - (g) For shipments of hazardous waste within the United States solely by water (bulk shipments only), send 3 copies of the manifest that are dated and signed pursuant to this rule to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States, if exported by water.
  - (h) For rail shipments of hazardous waste within the United States that originate at the site of generation, the generator shall send not less than 3 copies of the manifest, dated and signed pursuant to this rule, to 1 of the following, as appropriate:
    - (i) The next nonrail transporter, if any.
    - (ii) The designated facility, if transported solely by rail.
    - (iii) The last rail transporter to handle the waste in the United States, if exported by rail.
  - (i) For shipments of hazardous waste that is regulated pursuant to 40 C.F.R. part 261, subpart C or D, to a designated facility in an authorized state that has not yet obtained authorization from the EPA to regulate that particular waste as hazardous, assure that the owner or operator of the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
- (5) The requirements of this rule do not apply to hazardous waste that is produced by a generator of more than 100 kilograms, but less than 1,000 kilograms, in a calendar month if both of the following requirements are met:

- (a) The waste is reclaimed under a contractual agreement pursuant to which the type of waste and frequency of shipments are specified in the agreement and the vehicle used to transport the waste to the recycling facility and to deliver the regenerated material back to the generator is owned and operated by the reclaimer of the waste.
- (b) The generator maintains a copy of the reclamation agreement in his or her files for a period of not less than 3 years after termination or expiration of the agreement.
- (6) A hazardous waste generator who authorizes a transporter to commingle his or her hazardous waste pursuant to R 299.9405(2) or (3) shall add the term "com-same," as specified in R 299.9405(2)(f), or "com-diff," as specified in R 299.9405(3)(f), to the manifest.
- (7) A generator whose manifested shipment results in a significant manifest discrepancy, as specified in R 299.9608, and a total or partial rejected shipment, shall do all of the following:
  - (a) For a total rejected shipment which is returned to the generator, all of the following:
    - (i) Indicate on the original manifest, acknowledgement of receipt, by signing and dating the returned portion of the original manifest.
    - (ii) Return the transporter copy of the original manifest to the transporter.
    - (iii) Submit 1 copy of the original manifest to the department.
    - (iv) Indicate on the new manifest, the original manifest number and the date the subject shipment was rejected.
  - (b) For a total rejected shipment which is to be sent to an alternative designated facility, grant permission to the transporter to alter the manifest to designate the new facility.
  - (c) For a partial rejected shipment, grant permission to the facility to receive the portion of the original shipment which is not being rejected.
  - (d) For a partial rejected shipment which is returned to the generator, all of the following:
    - (i) Indicate on the original manifest, acknowledgement of receipt, by signing and dating the returned portion of the transporter copy of the original manifest.
    - (ii) Retain a copy of the signed original manifest as a record of the wastes returned.
    - (iii) Return the transporter copy of the original manifest to the transporter.
    - (iv) Before shipping the rejected portion of the original shipment to an alternate facility, both of the following:
      - (A) Prepare a new manifest and comply with the requirements of this rule.
      - (B) Indicate on the new manifest, the original manifest number and the date of rejection.
- (8) The requirements of this rule and R 299.9305(d) do not apply to the transport of hazardous waste shipments on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such property is contiguous property divided by a public or private right-of-way. Notwithstanding R 299.9401, the generator or transporter shall comply with the requirements for transporters set forth in R 299.9410 in the event of a discharge of hazardous waste on a public or private right-of-way.

**R 299.9306 Accumulation time.**

Rule 306. (1) Except as provided in subrules (4), (5), (6), (7), (8), (9), and (10) of this rule, a generator may accumulate hazardous waste on-site for 90 days or less without a construction permit or an operating license if he or she complies with all of the following requirements:

- (a) The waste is managed pursuant to 1 or more of the following methods:
  - (i) The waste is placed in containers, the generator complies with 40 C.F.R. part 265, subparts I, AA, BB, and CC, the generator complies with the containment requirements of 40 C.F.R. §264.175, and the generator documents the inspections required pursuant to 40 C.F.R. §265.174. The generator shall maintain the inspection records on-site for a period of not less than 3 years from the date of the

inspection. The period of retention shall be extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the director. If the generator is unable to comply with 40 C.F.R. §265.176 or the authority having jurisdiction determines that an alternative to the requirements of 40 C.F.R. §265.176 is more protective of human health and the environment, then compliance with 40 C.F.R. §265.176 is considered achieved by meeting the requirements of the fire prevention code and its rules. A copy of an approval letter indicating that the containers are stored in compliance with the fire prevention code and signed by the authority having jurisdiction shall be maintained at the generator's site.

(ii) The waste is placed in tanks, the generator complies with 40 C.F.R. part 265, subparts J, AA, BB, and CC, except for §§265.197(c) and 265.200, and the generator complies with R 299.9615, except for R 299.9615(1). For the purposes of this rule, the references in R 299.9615 to 40 C.F.R. part 264 shall be replaced by references to 40 C.F.R. part 265.

(iii) The waste is placed on drip pads, the generator complies with 40 C.F.R. part 265, subpart W, and the generator maintains the following records at the facility:

(A) A description of the procedures that shall be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days.

(B) Documentation of each waste removal, including the quantity of waste that is removed from the drip pad and the sump or collection system and the date and time of removal.

(b) The date upon which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container.

(c) While being accumulated on-site, each container and tank is labeled with the words "Hazardous Waste."

(d) The generator complies with the requirements for owners or operators in 40 C.F.R. part 265, subparts C and D, and 40 C.F.R. §265.16 and 40 C.F.R. §268.7(a)(5). If there is a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment, or if the generator has knowledge that a spill has reached surface water or groundwater, then the generator shall immediately notify the department's pollution emergency alerting system - telephone number 800-292-4706. The notification shall include all of the following information:

(i) The name and telephone number of the person who is reporting the incident.

(ii) The name, address, telephone number, and site identification number of the generator.

(iii) The date, time, and type of incident.

(iv) The name and quantity of the material or materials involved and released.

(v) The extent of injuries, if any.

(vi) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.

(vii) An assessment of actual or potential hazards to human health or the environment.

(viii) The immediate response action taken.

(e) The area where waste is accumulated is protected, as appropriate for the type of waste being stored, from weather, fire, physical damage, and vandals.

(f) Hazardous waste accumulation is conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act.

(g) The closure standards of 40 C.F.R. §§265.111 and 265.114.

A generator may, without a construction permit or an operating license issued pursuant to part 111 of the act and without complying with subrule (1) of this rule, accumulate as much as 55 gallons of hazardous waste or 1 quart of an acute hazardous waste that is identified in table 203a, 204a, 204b, or 205a, or a severely toxic hazardous waste that is identified in table 202 in containers at or near any point of generation where wastes initially accumulate and which is under the control of the operator of the

process that generates the waste if he or she complies with 40 C.F.R. §§265.171, 265.172, and 265.173 and marks his or her containers with the hazardous waste number of the waste and the words "Hazardous Waste." A generator may substitute the chemical name for the hazardous waste number of the waste on his or her containers at or near the point of generation to comply with this subrule. A generator who accumulates hazardous waste, an acute hazardous waste that is listed in table 203a, 204a, 204b, or 205a, or a severely toxic hazardous waste that is listed in table 202 in excess of the amounts listed in this subrule at or near any point of generation shall, with respect to that amount of excess waste, comply, within 3 days, with the requirements of this subrule or other applicable provisions of this part. During the 3-day period, the generator shall continue to comply with the requirements of this rule. The generator shall mark the container that holds the excess accumulation of hazardous waste with the date that the excess amount began accumulating and the hazardous waste number of the waste.

(3) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of parts 5, 6, and 7 of these rules, unless the generator has been granted an extension of the time period or except as provided in subrules (4), (5), (6), (7), (8), (9), and (10) of this rule. An extension of up to 30 days may be granted by the director, or his or her designee, if hazardous wastes must remain on-site for more than 90 days due to unforeseen, temporary, and uncontrollable circumstances.

(4) A generator who generates more than 100 kilograms, but less than 1,000 kilograms, of hazardous waste in a calendar month and who does not generate or accumulate acute hazardous waste or severely toxic hazardous waste that exceeds the volumes specified in R 299.9205(1)(b) or (c) may accumulate hazardous waste on-site for 180 days or less without a construction permit or an operating license or without being an existing facility pursuant to R 299.9502 if all of the following provisions are complied with:

(a) The quantity of waste accumulated on-site does not exceed 6,000 kilograms.

(b) The generator does either of the following:

Places the waste in containers and complies with 40 C.F.R. part 265, subpart I, except for §§265.176 and 265.178, and, if the quantity of waste accumulated on-site exceeds 1,000 kilograms, complies with the containment requirements of 40 C.F.R. §264.175.

(ii) Places the waste in tanks and complies with 40 C.F.R. §265.201 and, if the quantity of waste accumulated on-site exceeds 1,000 kilograms, complies with the containment requirements of 40 C.F.R. §§265.191, 265.192, 265.193, and 265.196.

Places the waste on a drip pad and complies with 40 C.F.R. part 265, subpart W, and maintains the following records on-site:

A description of the procedures that will be followed to ensure that all of the wastes are removed from the drip pad and associated collection system at least once every 90 days.

(B) Documentation of each waste removal, including the quantity of waste that is removed from the drip pad and the sump or collection system and the date and time of removal.

(c) The generator ensures that the date upon which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container.

(d) The generator on each container ensures that while being accumulated on-site, each container and tank is marked clearly with the words "Hazardous Waste."

(e) The generator complies with 40 C.F.R. part 265, subpart C, and 40 C.F.R. §268.7(a)(5).

(f) The generator ensures that, at all times, there is at least one employee either on the premises or on call who is responsible for coordinating all emergency response measures specified in subdivision (i) of this subrule. The employee is the emergency coordinator and, if on call, shall be available to respond to an emergency by reaching the facility within a short period of time.



- (g) The generator posts, next to the telephone, the name and telephone number of the emergency coordinator; the location of fire extinguishers and spill control material and, if present, fire alarm; and the telephone number of the fire department, unless the facility has a direct alarm.
- (h) The generator ensures that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.
- (i) The emergency coordinator or his or her designee responds to any emergencies that arise. An emergency coordinator shall respond as follows:
  - (i) If there is a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.
  - (ii) If there is a spill, contain the flow of hazardous waste to the extent possible and, as soon as is practicable, clean up the hazardous waste and any contaminated materials or soils.
  - (iii) If there is a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment or if the generator has knowledge that a spill has reached surface water or groundwater, then the generator shall immediately notify the department's pollution emergency alerting system - telephone number 800-292-4706. For releases that could threaten human health outside the individual site of generation and spills that have reached surface waters, the generator shall also immediately notify the national response center at its 24-hour, toll-free number - 800-424-8802. The notifications shall include all of the following information:
    - (A) The name and telephone number of the person who is reporting the incident.
    - (B) The name, address, telephone number, and site identification number of the generator.
    - (C) The date, time, and type of incident.
    - (D) The name and quantity of the material or materials involved and released.
    - (E) The extent of injuries, if any.
    - (F) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.
    - (G) An assessment of actual or potential hazards to human health or the environment.
    - (H) The immediate response action taken.
- (j) The generator ensures that the area where the waste is accumulated is protected from weather, fire, physical damage, and vandals.
- (k) The generator ensures that hazardous waste accumulation is conducted so hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act.
- (5) A generator who generates more than 100 kilograms, but less than 1,000 kilograms, of hazardous waste in a calendar month and who must transport his or her waste, or offer his or her waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a construction permit or an operating license or without being an existing facility pursuant to R 299.9502, if he or she complies with subrule (4) of this rule.
- (6) A generator who generates more than 100 kilograms, but less than 1,000 kilograms, of hazardous waste in a calendar month and who accumulates hazardous waste in quantities of more than 6,000 kilograms or accumulates hazardous waste for more than 180 days, or for more than 270 days if he or she must transport the waste, or offer the waste for transportation, over a distance of 200 miles or more, is an operator of a storage facility and is subject to the requirements of parts 5 and 6 of these rules, unless he or she has been granted an extension to the 180-day or, if applicable, 270-day period. The director or his or her designee may grant an extension if hazardous waste must remain on-site for more than 180 days or 270 days, if applicable, due to unforeseen, temporary, and uncontrollable circumstances. The director or his or her designee may grant an extension of up to 30 days on a case-by-case basis.

(7) A generator who generates 1,000 kilograms or more of hazardous waste in a calendar month and who also generates wastewater treatment sludges from electroplating operations that meet the listing description for F006 waste, may accumulate F006 on-site for more than 90 days, but not more than 180 days, without a construction permit or an operating license or without being an existing facility pursuant to R 299.9502, if he or she complies with all of the following requirements:

(a) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering the F006 waste or are otherwise released to the environment before its recycling.

(b) The F006 waste is legitimately recycled through metals recovery.

(c) The quantity of F006 waste on-site does not exceed 20,000 kilograms at any one time.

(d) The F006 waste is managed pursuant to either of the following requirements:

(i) The F006 waste is placed in containers and the generator complies with the applicable requirements of 40 C.F.R. part 265, subparts I, AA, BB, and CC, the containment requirements of 40 C.F.R. §264.175, and the generator documents the inspections required pursuant to 40 C.F.R. §265.174. The generator shall maintain the inspection records on-site for a period of not less than 3 years from the date of the inspection. The period of retention shall be extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the director.

(ii) The F006 waste is placed in tanks and the generator complies with the applicable requirements of 40 C.F.R. part 265, subparts J, AA, BB, and CC, except for 40 C.F.R. §§265.197(c) and 265.200, and the generator complies with R 299.9615, except for R 299.9615(1). For the purposes of this rule, the references in R 299.9615 to "40 C.F.R. part 264" shall be replaced by references to "40 C.F.R. part 265."

(e) The date upon which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container.

(f) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "hazardous waste."

(g) The generator complies with the requirements for owners or operators in 40 C.F.R. part 265, subparts C and D, with 40 C.F.R. §265.16, and with 40 C.F.R. §268.7(a)(5). If there is a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment, or if the generator has knowledge that a spill has reached surface water or groundwater, then the generator shall immediately notify the department's pollution emergency alerting system - telephone number 800-292-4706. The notification shall include all of the following information:

(i) The name and telephone number of the person who is reporting the incident.

(ii) The name, address, telephone number, and site identification number of the generator.

(iii) The date, time, and type of incident.

(iv) The name and quantity of the material or materials involved and released.

(v) The extent of injuries, if any.

(vi) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.

(vii) An assessment of actual or potential hazards to human health or the environment.

(viii) The immediate response action taken.

(h) The area where waste is accumulated is protected, as appropriate for the type of waste being stored, from weather, fire, physical damage, and vandals.

(i) Hazardous waste accumulation is conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act.

(j) The closure standards of 40 C.F.R. §§265.111 and 265.114.

(8) A generator who generates 1,000 kilograms or more of hazardous waste in a calendar month and who also generates wastewater treatment sludges from electroplating operations that meet the listing description for F006 waste, and who must transport this waste or offer this waste for transportation over a distance of 200 miles or more for off-site metals recovery may accumulate F006 on-site for more than 90 days, but not more than 270 days, without a construction permit or an operating license or without being an existing facility pursuant to R 299.9502, if he or she complies with subrule (7) of this rule.

(9) A generator who accumulates F006 waste pursuant to subrule (7) of this rule and who accumulates F006 for more than 180 days, or who accumulates more than 20,000 kilograms of F006 on-site, is an operator of a storage facility and is subject to parts 5, 6, and 7 of these rules unless the generator has been granted an extension to the 180-day period or an exception to the 20,000-kilogram accumulation limit. Such an extension or exception may be granted by the director, or his or her designee, if F006 waste must remain on-site for longer than 180 days or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the director, or the director's designee, on a case-by-case basis.

(10) A generator who accumulates F006 waste pursuant to subrule (8) of this rule and who accumulates F006 on-site for more than 270 days, or who accumulates more than 20,000 kilograms of F006 on-site, is an operator of a storage facility and is subject to parts 5, 6, and 7 of these rules unless the generator has been granted an extension to the 270-day period or an exception to the 20,000-kilogram accumulation limit. Such an extension or exception may be granted by the director, or his or her designee, if F006 waste must remain on-site for longer than 270 days or if more than 20,000 kilograms of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the director, or his or her designee, on a case-by-case basis.

(11) The provisions of 40 C.F.R. §§264.175 and 265.16 and part 265, subparts C, D, I, and J, are adopted by reference in R 299.11003. For purposes of the adoption of 40 C.F.R. §265.56(j), the word "director" shall replace the words "regional administrator."

#### **R 299.9307 Generator recordkeeping.**

Rule 307. (1) A generator shall keep records of any test results, waste analyses, or other determinations made pursuant to R 299.9302 for not less than 3 years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(2) A generator who is requested by the director to submit evaluation results shall provide the required information within 30 days after receipt of the request. The records shall include all of the following information:

- (a) The type of waste and the source or process from which it was produced.
- (b) The chemical composition of the waste and the anticipated fluctuations in its chemical composition.
- (c) If tests were conducted in the evaluation, all of the following information shall be included:
  - (i) The sampling procedure and the reasons for determining that the sample is representative of the waste.
  - (ii) The results of all tests conducted.
  - (iii) The accuracy and precision of any tests conducted.

(3) A generator shall keep a copy of each manifest signed pursuant to R 299.9304(4) for 3 years or until he or she receives a signed copy from the designated facility which received the waste. This signed copy shall be retained as a record for not less than 3 years from the date the waste was accepted by the initial transporter.

- (4) A generator shall keep a copy of each biennial report, exception report, or other report required by the director, or his or her designee, for a period of not less than 3 years from the due date of the report.
- (5) A generator shall keep the documentation required pursuant to R 299.9503(1)(i)(ix) for not less than 3 years from the date that the waste was treated.
- (6) The periods of retention referred to in this rule are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the director.
- (7) A generator who generates more than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month is exempt from the recordkeeping requirements of subrule (4) of this rule.

**R 299.9309 Exports of hazardous waste.**

Rule 309. (1) Any person who exports hazardous waste to a foreign country shall comply with 40 C.F.R. part 262, subpart E, except 40 C.F.R. §§262.54 and 262.55.

(2) A primary exporter shall comply with the manifest requirements of R 299.9304, except as follows:

- (a) In place of the name, site address, and site identification number of the designated permitted facility, the primary exporter shall enter the name and site address of the consignee.
  - (b) In place of the name, site address, and site identification number of the permitted alternate facility, the primary exporter may enter the name and site address of any alternative consignee.
  - (c) In the portion of the manifest reserved for special handling instructions and additional information, the primary exporter shall identify the point of departure from the United States.
  - (d) The following statement shall be added to the end of the first sentence of the certification set forth on the manifest form: "and conforms to the terms of the attached EPA acknowledgement of consent."
  - (e) In place of the requirements of R 299.9304(3), the primary exporter shall obtain a manifest form approved by the director.
  - (f) The primary exporter shall require the consignee to confirm, in writing, the delivery of the hazardous waste to that facility and to describe any significant discrepancies, as defined in R 299.9608, between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste.
  - (g) In place of the requirements of R 299.9304(1)(d), where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter shall do either of the following:
    - (i) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee pursuant to 40 C.F.R. §262.53(c) and obtain an EPA acknowledgement of consent before delivery.
    - (ii) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States and instruct the transporter to revise the manifest pursuant to the primary exporter's instructions.
  - (h) The primary exporter shall attach a copy of the EPA acknowledgement of consent to the shipment to the manifest which shall accompany the hazardous waste shipment. For exports by rail or bulk water shipment, the primary exporter shall provide the transporter with an EPA acknowledgement of consent which shall accompany the hazardous waste, but which need not be attached to the manifest, except that for exports by bulk water shipment, the primary exporter shall attach the copy of the EPA acknowledgement of consent to the shipping paper.
  - (i) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the United States customs official at the point the hazardous waste leaves the United States pursuant to 40 C.F.R. §263.20(g)(4).
- (3) In place of the requirements of R 299.9308(3), a primary exporter shall file an exception report with the administrator and director if any of the following occurs:

- (a) The exporter has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date the manifest was accepted by the initial transporter.
- (b) Within 90 days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received.
- (c) The waste is returned to the United States.
- (4) The provisions of 40 C.F.R. part 262, subpart E, except 40 C.F.R. §§262.54 and 262.55, are adopted by reference in R 299.11003.

**R 299.9310 Hazardous waste imports.**

Rule 310. (1) Any person who imports hazardous waste from a foreign country into the United States shall comply with this rule.

(2) When importing hazardous waste, a person shall meet all of the requirements of R 299.9304 for the manifest, except as follows:

- (a) In place of the generator's name, address, and site identification number, the name and address of the foreign generator and the United States importer's name, address, and site identification number shall be used.
- (b) In place of the generator's signature on the certification statement, the United States importer, or his or her agent, shall sign and date the certification and obtain the signature of the initial transporter.
- (3) A person who imports hazardous waste from a foreign country to an ultimate treatment, storage, or disposal facility in Michigan shall use a manifest form approved by the director.

**PART 4. TRANSPORTERS OF HAZARDOUS WASTE**

**R 299.9401 Scope.**

Rule 401. (1) This part applies to transporters of hazardous waste if the transportation requires a manifest under part 3 of these rules, and transporters operating under R 299.9304(5).

(2) This part does not apply to on-site transportation of hazardous waste either by generators or by owners or operators of licensed hazardous waste treatment, storage, or disposal facilities.

(3) A transporter of hazardous waste shall also comply with part 3 of these rules relating to hazardous wastes, except for R 299.9307(4) and R 299.9308(1) and (2), and the accumulation time limits specified in R 299.9404(1)(b), if either of the following provisions apply to the transporter:

- (a) The transporter is the United States importer of hazardous waste into the state from abroad.
- (b) The transporter commingles, by placing the waste in the same container, compatible hazardous waste of different DOT shipping descriptions where the DOT hazard class or the DOT packing group differs in a manner that alters the components of the waste description on the generator's original manifest.
- (4) A person who commingles hazardous waste from lab packs shall comply with parts 5, 6, and 7 of these rules if the wastes from the lab packs are mixed.
- (5) A transporter of federal hazardous waste subject to the manifesting requirements of part 3 of these rules or subject to the universal waste provisions of R 299.9228 that is being imported from or exported to any of the countries listed in 40 C.F.R. §262.58(a)(1) for the purpose of recovery shall comply with R 299.9312.
- (6) This part does not apply to transportation during an explosives or munitions emergency response which is conducted pursuant to R 299.9503(2).

**R 299.9402 Site identification number.**

Rule 402. A transporter shall not transport hazardous wastes without having received a site identification number.

**R 299.9409 Transporter manifest and recordkeeping requirements.**

Rule 409. (1) Hazardous waste transporters transporting hazardous wastes manifested to a facility in Michigan, or generated in Michigan, shall transport using a manifest form approved by the department unless the hazardous waste is generated in Michigan, but manifested to a facility in another state and that state requires use of its own manifest. Hazardous waste transporters transporting hazardous waste neither generated in the state, nor manifested to a facility in the state, shall transport using a manifest form equivalent to EPA form 8700-22. A hazardous waste transporter who removes a hazardous waste from the site of a generator or who transports hazardous wastes into the state shall comply with 40 C.F.R. part 263, subpart B, regarding the manifest system, compliance with the manifest, and recordkeeping. The transporter shall ensure that all portions of the manifest have been completed before signing the manifest and accepting the hazardous waste.

(2) If the hazardous waste cannot be delivered pursuant to the manifest and 40 C.F.R. §263.21(a), and if the transporter revises the manifest pursuant to 40 C.F.R. §263.21(b), the transporter shall legibly note on the manifest the name and phone number of the person representing the generator from whom instructions have been obtained.

(3) A transporter whose manifested shipment results in a significant manifest discrepancy, as specified in R 299.9608, and a total or partial rejected shipment shall do all of the following:

(a) Indicate on the original manifest acknowledgement of receipt by signing and dating the manifest before leaving the designated facility.

(b) For a total rejected shipment which is returned to the generator, a transporter shall do both of the following:

(i) Obtain acknowledgement of receipt by having the generator sign and date the original manifest.

(ii) Retain the transporter copy of the original manifest.

(c) For a total rejected shipment to be sent to an alternate facility, obtain permission from the generator to alter the original manifest to designate the alternate facility and document as specified in subrule (2) of this rule.

(d) For a partial rejected shipment which is returned to the generator, a transporter shall do both of the following:

(i) Obtain acknowledgement of receipt by having the generator sign and date the original manifest.

(ii) Retain the transporter copy of the original manifest.

(e) Before accepting for transportation the rejected portion of the original shipment, confirm that the generator has prepared a new manifest pursuant to part 3 of these rules.

(4) A transporter shall retain all records, logs, or documents required pursuant to this part for a period of 3 years. The retention period shall be extended during the course of any unresolved enforcement action regarding the regulated activity or as otherwise required by the department.

(5) The provisions of 40 C.F.R. part 263, subpart B, are adopted by reference in R 299.11003.

**R 299.9410 Hazardous waste discharges.**

Rule 410. (1) If a fire, explosion, or other discharge of hazardous waste or hazardous waste constituents occurs during transportation that could threaten human health or the environment, or if a transporter has knowledge that a spill has reached surface water or groundwater, then the transporter shall take appropriate immediate action to protect human health and the environment, including notification of local authorities and the department's pollution emergency alerting system - telephone number 800-292-4706. Each notification shall include all of the following information:

- (a) Name of the reporter.
  - (b) Name and address of carrier represented by the reporter.
  - (c) Telephone number where the reporter can be contacted.
  - (d) Date, time, and location of the incident.
  - (e) The extent of injuries, if known.
  - (f) Classification, name, and quantity of the hazardous waste involved and if a continuing danger to life exists at the scene of the fire explosion, or other discharge.
- (2) If a discharge of hazardous waste or hazardous waste constituents occurs during transportation and if a state, local government, or federal official acting within the scope of his or her official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, then the official may authorize the removal of the waste, without the preparation of a manifest, by transporters who do not have site identification numbers and a registration and permit under Act 138.
- (3) A transporter who has discharged hazardous waste or hazardous waste constituents shall comply with all of the following requirements:
- (a) Give notice, if required pursuant to 49 C.F.R. §171.15, to the national response center at 800-424-8802 or 202-426-2675.
  - (b) Report, in writing, as required by 49 C.F.R. §171.16, to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.
  - (c) Provide notice, if the discharge was from a bulk shipment transported by water, as required by 33 C.F.R. §153.203 for oil and hazardous substances.
  - (d) Ensure cleanup of any hazardous waste or hazardous waste constituent discharge or take such action as may be required or approved by federal, state, or local officials so that the hazardous waste or hazardous waste constituent discharge no longer presents a hazard to human health or the environment.
- (4) The provisions of 33 C.F.R. §153.203 and 49 C.F.R. §§171.15 and 171.16 are adopted by reference in R 299.11004.

## **PART 5. CONSTRUCTION PERMITS AND OPERATING LICENSES**

### **R 299.9502 Operating licenses; applicability and general application requirements.**

Rule 502. (1) Part 111 of the act requires an operating license for the treatment, storage, and disposal of any hazardous waste, except for those facilities identified in subrules (3), (4), and (5) of this rule and except for trial burns or operations as provided in R 299.9628, as identified or listed in parts 2 and 8 of these rules. Requirements for remedial action plans, special forms of operating licenses, are specified in R 299.9524. The terms "treatment," "storage," "disposal," and "hazardous waste" are defined in part 1 of these rules. Owners or operators of hazardous waste management units shall have an operating license during the active life of the unit, including the closure period. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure after January 26, 1983, shall have an operating license for the postclosure period, unless they demonstrate closure by removal pursuant to subrules (8) and (9) of this rule or they obtain an enforceable document in place of an operating license for the postclosure period, as provided for in subrule (12) of this rule. If an operating license for the postclosure period is required, then the license shall incorporate the applicable groundwater monitoring, corrective action, and postclosure care requirements of part 6 of these rules. The denial of an operating license for the continued operation of a hazardous waste management facility or unit does not affect the requirement of obtaining a postclosure operating license. Owners or operators of certain facilities require operating licenses that are issued pursuant to part 111 of the act and, in addition, permits that are issued pursuant to other programs for

certain aspects of the facility operation. Operating licenses that are issued pursuant to part 111 of the act are required for all of the following:

- (a) Injection wells that dispose of hazardous waste, except as provided by R 299.9503(3)(a).
- (b) The treatment, storage, or disposal of hazardous waste at facilities that require a permit pursuant to part 31 of the act, except as provided by R 299.9503(3)(b).
- (c) Barges or vessels that dispose of hazardous waste by ocean disposal and onshore hazardous waste treatment or storage facilities that are associated with an ocean disposal operation.

(2) An owner or operator of a facility that is licensed pursuant to part 111 of the act on the effective date of these rules may continue to operate under the existing license if all of the following conditions are met:

(a) The facility is being operated in compliance with its existing operating license, the applicable statutory and regulatory requirements promulgated under part 111 of the act after license issuance, as required pursuant to R 299.9516, and all other applicable environmental statutes.

(b) The facility is either of the following:

(i) A facility which qualifies for interim status pursuant to 40 C.F.R. §270.70 and which is in compliance with all of the following provisions:

(A) Has filed a part A application pursuant to 40 C.F.R. §270.10(e).

Has amended the part A application, as necessary, pursuant to 40 C.F.R. §270.10(g).

(C) Has not had interim status terminated pursuant to 40 C.F.R. §270.73.

(D) Has complied with the applicable provisions of 40 C.F.R. part 265 and §270.71 and the applicable provisions of parts 6 and 8 of these rules.

(E) Has not made changes to the hazardous waste management facility during interim status that amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility is more than 50% of the capital cost of a comparable entirely new hazardous waste management facility. Changes pursuant to this subparagraph do not include changes made solely for the purpose of complying with the requirements of R 299.9615 for tanks and ancillary equipment. Changes pursuant to this subparagraph do not include changes made solely for the purposes of managing wastes generated from releases that originate within the facility boundary, pursuant to R 299.9503(4)(c).

(ii) A facility which is permitted pursuant to 40 C.F.R. part 270 and which is in compliance with the permit or license issued.

(c) The owner or operator submits an application for a new license to the director not less than 180 days before license expiration.

(d) The owner or operator complies with all applicable requirements of parts 6, 7, and 8 of these rules.

(3) An owner or operator of a storage facility which is in existence on March 30, 1983, and which is subject to the licensing requirements of part 111 of the act solely due to the 1982 amendments to part 111 of the act may continue to operate until such time as the director acts upon the facility's application for an operating license, if all of the following conditions are met:

(a) The facility is in compliance with subrule (2)(b) of this rule.

(b) The owner or operator submits a complete operating license application within 180 days after being requested to do so by the director.

(c) The owner or operator complies with the applicable requirements of parts 6, 7, and 8 of these rules and all applicable environmental statutes.

(4) The owner or operator of a treatment, storage, or disposal facility that is in existence on the effective date of amendments to part 111 of the act or these rules that render the facility subject to the licensing requirements of part 111 of the act may continue to operate until such time as the director acts upon the owner or operator's application for an operating license, if the conditions of subrule (3)(a), (b), and (c) of this rule are met.



(5) An owner or operator of a facility which is in existence on January 1, 1980, and which is subject to the licensing requirements of part 111 of the act, but which has not yet obtained an operating license pursuant to part 111 of the act, may continue to operate until such time as the director acts upon the facility's application for an operating license if the owner or operator meets the conditions of subrule (3)(a), (b), and (c) of this rule.

(6) Allowing continued operation pursuant to subrules (2) to (5) of this rule does not do any of the following:

(a) Reduce the owner or operator's responsibility to dispose of all hazardous waste in a manner that protects the environment and human health.

(b) Eliminate or reduce past, present, or future liability incurred during the operation.

(c) Restrict the ability of state or local governmental agencies to take action to enforce existing laws, statutes, rules, or regulations.

(7) A person who proposes to initiate the operation of any treatment, storage, or disposal facility shall submit, to the director, on forms provided by the director or his or her designee, an operating license application that sets forth the information required by R 299.9508.

(8) Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination pursuant to 40 C.F.R. part 265 standards shall obtain an operating license for the postclosure period, unless the owners or operators can provide an equivalency demonstration to the director that the closure met the standards for closure by removal or decontamination specified in 40 C.F.R. §§264.228, 264.280(e), or 264.258, respectively. The demonstration shall be made as follows:

(a) If the owner or operator has submitted an operating license application for the postclosure period, the owner or operator may request a determination, based on information contained in the application, that 40 C.F.R. part 264 closure-by-removal standards were met. If the director determines that 40 C.F.R. part 264 standards were met, then he or she shall notify the public of his or her proposed decision, allow for public comment, and reach a final determination according to the procedures in subrule (9) of this rule.

(b) If the owner or operator has not submitted an operating license for the postclosure period, then the owner or operator may petition the director for a determination that an operating license for the postclosure period is not required because the closure was in compliance with the applicable 40 C.F.R. part 264 closure standards. The petition shall include all data which demonstrates that closure by removal or decontamination standards were met or the petition shall demonstrate that the unit closed pursuant to state requirements that met or exceeded the applicable 40 C.F.R. part 264 closure by removal standard. The director shall approve or deny the petition according to the procedures outlined in subrule (9) of this rule.

(9) If a facility owner or operator seeks an equivalency demonstration pursuant to subrule (8) of this rule, the director shall do all of the following:

(a) Provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within 30 days from the date of the notice.

(b) In response to a request, hold a public hearing concerning the equivalence of the 40 C.F.R. part 265 closure to a 40 C.F.R. part 264 closure and give public notice of the hearing not less than 30 days before it occurs.

(c) Determine whether the 40 C.F.R. part 265 closure met the 40 C.F.R. part 264 closure by removal or decontamination requirements within 90 days of receipt of the petition.

(d) If the director finds that the closure did not meet the applicable standards of 40 C.F.R. part 264, then provide the owner or operator with a written statement of the reasons why the closure failed to meet 40 C.F.R. part 264 standards.

(10) If the director determines, pursuant to subrule (9) of this rule, that a closure was not in compliance with the applicable 40 C.F.R. part 264 standards, then the owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving a written statement from the director. The director shall review any additional information submitted and make a final determination within 60 days. If the director determines that the facility did not close pursuant to 40 C.F.R. part 264 closure by removal standards, then the facility is subject to operating license requirements for the postclosure period.

(11) Owners or operators of waste military munitions treatment and disposal facilities are authorized to continue to accept waste munitions if all of the following conditions are met:

(a) The facility was in existence as a hazardous waste facility and already licensed to handle waste military munitions, on the effective date on which the waste munitions became subject to regulation under these rules.

(b) On or before the effective date on which the waste military munitions became subject to regulation under these rules, the licensee submits an operating license modification to remove or amend the license provisions which restrict the receipt of off-site waste munitions.

(c) The licensee submits a complete modification request within 180 days of the effective date on which the waste munitions became subject to regulation under these rules.

(12) At the discretion of the director, an owner or operator may obtain, in place of an operating license for the postclosure period, an enforceable document which satisfies the requirements of R 299.9508(3) and (4), R 299.9612, and R 299.9629. The director, in issuing enforceable documents under this subrule, shall assure a meaningful opportunity for public involvement which, at a minimum, includes public notice and opportunity for public comment when the department becomes involved in a remediation at the facility as a regulatory or enforcement matter, on the proposed preferred remedy and the assumptions upon which the remedy is based, in particular those related to land use and site characterizations, and at the time of a proposed decision that remedial action is complete at the facility. The public notice and public comment requirements of this subrule may be modified if the facility meets either of the following conditions:

(a) If the director determines that even a short delay in the implementation of a remedy would adversely affect human health or the environment, the director may delay compliance with the public notice and public comment requirements of this subrule and implement the remedy immediately. However, the director shall assure involvement of the public at the earliest opportunity, and, in all cases, upon making the decision that additional remedial action is not needed at the facility.

(b) The director may allow a remediation initiated before October 22, 1998 to substitute for corrective action required under a postclosure license even if the public involvement requirements of this subrule have not been met so long as the director assures that notice and comment on the decision that no further remediation is necessary to protect human health and the environment takes place at the earliest reasonable opportunity after October 22, 1998.

(13) The provisions of 40 C.F.R. §§264.96, 264.117, 265.111, 265.114, 270.10(e) and (g), 270.70, 270.71, and 270.73 and part 265, except subparts E, H, and DD and 40 C.F.R. §§265.112(d)(1), 265.115, and 265.120, are adopted by reference in R 299.11003, with the exception that the word "director" shall replace the term "regional administrator."

#### **R 299.9504 Construction permit application; content.**

Rule 504. (1) In addition to the information that may be required pursuant to subrule (18) of this rule, all applications for a construction permit shall include all of the following items:

(a) A construction permit application fee or deposit as calculated pursuant to R 299.9507.

(b) General information that is required pursuant to 40 C.F.R. §270.13.

- (c) General information that is required pursuant to 40 C.F.R. §270.14(b) and (d).
- (d) A hydrogeological report that contains the information required pursuant to R 299.9506.
- (e) An environmental assessment, including a failure mode assessment that provides an analysis of the potential major methods by which safe handling of hazardous wastes may fail at a treatment, storage, or disposal facility. The owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill shall include, in the environmental assessment, information that is reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, the information shall address all of the following subjects:
  - (i) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit.
  - (ii) The potential pathways of human exposure to hazardous waste or constituents resulting from the releases described in paragraph (i) of this subdivision.
  - (iii) The potential magnitude and nature of the human exposure resulting from the releases described in paragraph (i) of this subdivision.
- (f) An environmental monitoring program that is in compliance with R 299.9611.
- (g) Engineering plans of all process equipment and containment structures at the facility. The plans shall be prepared and sealed by a registered professional engineer and shall include all of the following information:
  - (i) Plan views, elevations, sections, and supplementary views that, together with general layout drawings, provide working information for the review of the facility.
  - (ii) Specifications on all construction materials and installation methods.
  - (iii) The basis of design for all process equipment and containment structures.
  - (iv) A flow diagram of the entire treatment, storage, or disposal process.
  - (v) The design capacity of each process.
- (2) Applicants proposing to store containers of hazardous waste shall submit the information required pursuant to 40 C.F.R. §270.15(a) to (e) in a construction permit application.
- (3) Applicants proposing to store or treat hazardous waste in tanks shall submit the information required pursuant to 40 C.F.R. §270.16(a) to (k) in a construction permit application.
- (4) Applicants proposing to incinerate or thermally treat hazardous waste shall submit either of the following in a construction permit application. If the owner or operator demonstrates compliance with the air emission standards and limitations in 40 C.F.R. part 63, subpart EEE, by conducting a comprehensive performance test and submitting to the director a notification of compliance under 40 C.F.R. §§63.1207(j) and 63.1210(b) which documents compliance with all applicable requirements of 40 C.F.R. part 63, subpart EEE, then the requirements of this subrule do not apply, except those provisions the director determines are necessary to ensure compliance with 40 C.F.R. §§264.345(a) and (c) if the owner or operator elects to comply with 40 C.F.R. §270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. The director may apply this subrule, on a case-by-case basis, for collecting information pursuant to subrule (18) of this rule and R 299.9521(3)(b):
  - (a) A trial burn plan containing the information listed in 40 C.F.R. §270.62(a) to (d) and a statement that suggests the conditions necessary to operate in compliance with the performance standards of 40 C.F.R. §264.343 during the trial burn. The statement shall include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in 40 C.F.R. §264.345.
  - (b) In place of a trial burn plan, the information specified in 40 C.F.R. §270.19(c). The director shall approve an application without a trial burn plan if he or she determines both of the following:
    - (i) The wastes are sufficiently similar.

- (ii) The incinerator units are sufficiently similar and the data from other trial burns are adequate to specify operating conditions that will ensure that the performance standards of 40 C.F.R. §264.343 will be met by the incinerator.
- (5) Applicants proposing to treat hazardous waste shall submit all of the following information in a construction permit application:
  - (a) A demonstration of how the method and process proposed for the treatment of each hazardous waste will do any of the following:
    - (i) Change the physical, chemical, or biological character or composition of the waste.
    - (ii) Neutralize the waste.
    - (iii) Recover energy or material resources from the waste.
    - (iv) Render the waste nonhazardous, safer for handling or transport, amenable to recovery, amenable to storage, or reduced in volume.
    - (v) Chemically bind or render the toxic constituents nonhazardous rather than only diluted.
  - (b) The proper treatment technique, the proper feed rates of treatment chemicals or reagents, and the proper operating conditions, such as temperature, pressure, and flow rate, for the types of hazardous wastes proposed for treatment, and the accuracy of the devices intended to measure these parameters.
  - (c) If the hazardous waste or treatment chemicals or reagents will have any detrimental effect on the materials used for construction, such as causing corrosion, dissolution, saltings, or sealings. If detrimental effects are possible, then the method of controlling them shall be specified.
  - (d) If the hazardous waste contains any constituents or contaminants that may interfere with the intended treatment process or decrease the effectiveness of the treatment and, if so, how the interferences will be controlled.
  - (e) If the hazardous waste contains constituents or contaminants that may cause the release of toxic gases or fumes during the intended treatment and, if so, how they will be controlled.
  - (f) If the hazardous waste contains constituents or contaminants that may form toxic constituents with the treatment chemicals or reagents during the intended treatment and, if so, how they will be controlled.
  - (g) Trial tests, including bench scale, pilot plant scale, or other appropriate tests, on each hazardous waste that is new or significantly different from hazardous waste previously treated to verify the information required in subdivision (b) of this subrule.
- (6) Applicants proposing to treat or store hazardous wastes in surface impoundments shall submit the following information in a construction permit application:
  - (a) The information required for surface impoundments pursuant to 40 C.F.R. §270.17(a) to (j).
  - (b) Information on the proposed liner, leachate collection, and leak detection, collection, and removal systems, as specified in R 299.9505.
- (7) Applicants proposing to treat or store hazardous waste in waste piles shall submit the following information in a construction permit application:
  - (a) The information required for waste piles pursuant to 40 C.F.R. §270.18.
  - (b) For new waste piles, information on the proposed liner, leachate collection, and leak detection, collection, and removal systems, as specified in R 299.9505.
- (8) Applicants proposing to landfill hazardous waste shall submit all of the following information in a construction permit application:
  - (a) The information required for landfills pursuant to 40 C.F.R. §270.21.
  - (b) Information on the proposed liner, leachate collection, and leak detection, collection, and removal systems, as specified in R 299.9505.
  - (c) Detailed engineering plans and an engineering report describing the final cover that will be applied to the landfill or each landfill cell pursuant to R 299.9619.
- (9) Applicants proposing to dispose of hazardous wastes by land treatment shall submit the information required pursuant to 40 C.F.R. §270.20 in a construction permit application.

(10) Applicants proposing facilities that treat, store, or dispose of hazardous waste in miscellaneous units shall submit the information required pursuant to 40 C.F.R. §270.23 in a construction permit application.

(11) Applicants proposing facilities that store or dispose of hazardous waste in an underground mine or cave shall submit all of the following information in a construction permit application:

(a) A geologic report that contains the following information:

(i) For the receiving formation and other formations that are within 30 feet above and below the receiving formation, an applicant shall provide all of the following information:

(A) The depth from the surface.

(B) Thickness.

(C) Permeability.

(D) Solubility.

(E) Reactivity.

(F) Compatibility.

(G) Composition.

This information shall be obtained by performing not less than 5 borings for the first 5 acres of the entire mine or cave and 3 borings for each additional 5 acres. Each boring site shall consist of a ceiling boring and a floor boring.

(ii) For the formations that are overlying the receiving formation for a lateral extent of not less than 5 miles from the facility boundary, an applicant shall provide all of the following information:

(A) The depth from the surface.

(B) Thickness.

(C) Composition.

(D) The identification of water, oil, or gas-bearing formations.

This information shall be obtained from existing geological information and reports.

(b) An assessment of the potential for water intrusion into the mine or cave. This assessment shall be used in the evaluation pursuant to R 299.9628(3)(a).

(c) Information on the means of transporting waste from any surface operation to the final disposal or storage area in the receiving formation and information on the means of preventing the release of hazardous constituents during transportation.

(d) An assessment of the structural stability of the mine or cave.

(e) Information on the proposed means of controlling the use, access, and penetration of the mine or cave.

(f) A demonstration that a sufficient buffer zone or other control exists to ensure that off-site activities will not adversely impact the integrity of the mine or cave.

(g) A proposed means of correlating waste placement locations to surface locations and a waste placement map.

(h) A proposed means of managing water in the mine or cave so as to maintain the integrity of the mine or cave and protect human health and the environment throughout the facility's active life and after closure of the facility.

(12) Applicants proposing hazardous waste treatment, storage, or disposal facilities that have process vents to which R 299.9630 applies shall submit the information required pursuant to 40 C.F.R. §270.24 in a construction permit application.

(13) Applicants proposing hazardous waste treatment, storage, or disposal facilities that have equipment to which R 299.9631 applies shall submit the information required pursuant to 40 C.F.R. §270.25 in a construction permit application.

- (14) Applicants proposing treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads shall submit the information required pursuant to 40 C.F.R. §270.26 in a construction permit application.
- (15) Applicants proposing to burn hazardous waste in a boiler or industrial furnace shall submit the information required pursuant to 40 C.F.R. §270.22.
- (16) Applicants proposing hazardous waste treatment, storage, or disposal facilities that have tanks, surface impoundments, or containers to which R 299.9634 applies shall submit the information required pursuant to 40 C.F.R. §270.27 in a construction permit application.
- (17) Construction permit applications shall be signed and certified pursuant to 40 C.F.R. §270.11. In addition, the application shall be signed by the titleholder of the land upon which the facility is proposed to be located.
- (18) The director may require a licensee or applicant to submit additional information to establish license conditions pursuant to R 299.9521.
- (19) A licensee or applicant may demonstrate to the director, or his or her designee, that less information than that specified in this rule is necessary to determine conformance with the requirements of part 6 of these rules and establish permit or license conditions pursuant to this part. If the licensee or applicant demonstrates that less information is required, the director, or his or her designee, shall waive the information requirement, except that the director, or his or her designee, shall not require less information than is required by RCRA.
- (20) The provisions of 40 C.F.R. §§264.343, 264.345, 266.102(e), 266.104 to 266.107, 270.11, 270.13, 270.14(b) and (d), 270.15(a) to (e), 270.16(a) to (k), 270.17(a) to (j), 270.18, 270.19(c), 270.20, 270.21, 270.22, 270.23, 270.24, 270.25, 270.26, 270.27, 270.62(a) to (d), 270.66, and 270.235(a)(1)(i) are adopted by reference in R 299.11003, with the exception that the term "waste management unit" shall replace the term "solid waste management unit."

#### **R 299.9514 Public hearings.**

- Rule 514. (1) During the public comment period provided under R 299.9511(7)(c), any interested person may submit written comments to the director on the draft construction permit, operating license, or notice of intent to deny and may request a public hearing if no hearing has already been scheduled. A request for public hearing shall be in writing and shall state the nature of the issues proposed to be raised at the hearing. All comments shall be considered in making the final decision on a public hearing and shall be answered as provided in R 299.9515.
- (2) The director or his or her designee shall hold a public hearing if 1 of the following occurs:
- (a) The director finds, on the basis of responses, a significant degree of interest in a draft construction permit, operating license, or notice of intent to deny.
- (b) The director determines that a hearing may clarify 1 or more issues involved in the final decision on a construction permit or operating license.
- (c) The director receives written notice of opposition to a draft construction permit, operating license, or notice of intent to deny within 45 days of the notice required pursuant to R 299.9511(7)(c).
- (3) Public notice of the hearing shall be given as specified in R 299.9513.
- (4) During a public hearing, any person may submit oral or written statements and data concerning the draft construction permit, operating license, or notice of intent to deny. The public comment period under R 299.9511(7)(c) shall automatically be extended to the close of any public hearing under this rule. The hearings officer may also extend the comment period by so stating at the hearing.
- (5) When possible, the director or his or her designee shall schedule a public hearing on a draft construction permit, operating license, or notice of intent to deny at a location convenient to the nearest population center to the proposed facility.

(6) A tape recording or written transcript of the hearing shall be made available to the public.

**R 299.9519 Modification, revocation, and suspension of construction permits and operating licenses during their terms.**

Rule 519. (1) An owner or operator shall construct, operate, and maintain a facility pursuant to part 111 of the act, these rules, and the construction permit or operating license issued to the facility pursuant to part 111 of the act. Any deviation from the conditions of a permit or license or from approved plans shall require prior approval by the director, unless otherwise specified in this rule, and, if necessary, modification of the permit or license.

(2) If the director receives any information during the term of a construction permit or operating license, for example, inspects the facility, receives information submitted by the licensee as required in the license, receives a request for modification or revocation pursuant to this rule, or conducts a review of the license file, then he or she may determine if 1 or more of the causes listed in subrule (3) of this rule for modification or subrule (11) of this rule for revocation, or both, exist. If cause exists, the director may commence proceedings pursuant to act 306 to modify or revoke a construction permit or operating license accordingly, subject to the limitation of subrule (4) of this rule, and may request an updated application pursuant to R 299.9520, if necessary. If an operating license is modified, then only the conditions subject to modification are reopened. If a construction permit or operating license modification satisfies the criteria of subrule (5) of this rule for a minor modification, or if the director has not yet been authorized pursuant to 40 C.F.R. part 271, then the license may be modified pursuant to subrule (6) of this rule. Otherwise, a draft license shall be prepared and other procedures specified in R 299.9511 followed.

(3) Any of the following are causes for modification of a construction permit or operating license:

(a) The causes listed pursuant to 40 C.F.R. §270.41(a), except 40 C.F.R. §270.41(a)(3).

(b) If the standards or regulations on which the permit or license was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit or license was issued.

(c) To modify a monitoring program pursuant to R 299.9611 or R 299.9612.

(d) Cause exists for modification pursuant to subrule (5) of this rule and the director determines that modification is appropriate.

(e) The director has received notification pursuant to R 299.9521 of a proposed transfer of ownership or operation.

(4) The director shall not consider suitability of the facility location at the time of construction permit or operating license modification, suspension, or revocation, or at the time of reviewing the initial operating license for a facility that received a construction permit, unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit or license issuance. In addition, the director shall not modify a construction permit beyond what is authorized in the construction permit.

(5) The permittee or licensee may put into effect the following minor permit modifications or minor license modifications without following the procedures specified in R 299.9511, if the permittee or licensee complies with subrule (6) of this rule:

(a) Any of the following general permit or license modifications:

(i) An administrative and information change.

(ii) A correction of a typographical error.

(iii) Equipment replacement or upgrading with functionally equivalent elements, for example pipes, valves, pumps, conveyors, or controls.

- (iv) A change in the frequency of, or procedures for, monitoring, reporting, sampling, or maintenance activities to provide for more frequent monitoring, reporting, sampling, or maintenance.
- (v) A change in the interim compliance dates in the schedule of compliance if the prior written approval of the director is obtained.
- (vi) A change in the expiration date of the permit or license to allow earlier permit or license termination if the prior written approval of the director is obtained.
- (vii) A change in the ownership or operational control of a facility if the procedures specified in R 299.9522 are followed and if the prior written approval of the director is obtained.
- (viii) Changes to remove operating license or construction permit conditions that are no longer applicable because the standards upon which they are based are no longer applicable to the facility if prior written approval from the director is obtained.
- (b) Any of the following general facility modifications:
  - (i) A change to waste sampling or analysis methods to conform to agency guidelines or regulations.
  - (ii) A change to waste sampling or analysis methods to incorporate change associated with F039 (multisource leachate) sampling or analysis methods.
  - (iii) A change to waste sampling or analysis methods to incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes if the prior written approval of the director is obtained.
  - (iv) A change in a sampling or analysis procedure or monitoring schedule if the prior written approval of the director is obtained.
  - (v) A change to analytical quality assurance/control plans to conform to department guidelines or rules.
  - (vi) A change in procedures for maintaining the operating record.
  - (vii) A change in the contingency plan to reflect the replacement of emergency equipment with functionally equivalent equipment, the upgrade of emergency equipment, or the relocation of emergency equipment listed.
  - (viii) A change to the training plan, other than those changes that affect the type of, or decrease the amount of, training given to employees.
  - (ix) The replacement of emergency equipment with functionally equivalent emergency equipment, the upgrade of emergency equipment, or the relocation of emergency equipment listed in the contingency plan.
  - (x) A change in the name, address, or phone number of a coordinator or another person or agency identified in the contingency plan.
  - (xi) A change in the procedures used to empty hazardous waste from transport vehicles and other containers.
  - (xii) A change that the construction quality assurance officer certifies will provide equivalent or better certainty that the unit components meet the design specifications. The certification shall be provided in the facility operating record.
- (c) Any of the following groundwater protection modifications:
  - (i) Replacement of an existing well that has been damaged or rendered inoperable without changing the location, design, or depth of the well.
  - (ii) A change in groundwater sampling or analysis procedure or monitoring schedule if the prior written approval of the director is obtained.
  - (iii) A change in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred if the prior written approval of the director is obtained.
- (d) Any of the following changes to closure plans:



- (i) A change in the estimate of maximum inventory of waste on-site at any time during the active life of the facility, not to exceed the approved process design capacity of the facility if the prior written approval of the director is obtained.
- (ii) A change in the closure schedule for any unit, a change in the final closure schedule for the facility, or extension of the closure period if the prior written approval of the director is obtained.
- (iii) A change in the expected year of final closure, if other permit or license conditions are not changed and if the prior written approval of the director is obtained.
- (iv) A change in procedure for the decontamination of facility equipment or structures if the prior written approval of the director is obtained.
- (v) The addition of temporary tanks used for neutralization, dewatering, phase separation, or other separation with the prior written approval of the director.
- (e) Any of the following postclosure modifications:
  - (i) A change in the name, address, or phone number of the contact person in the postclosure plan.
  - (ii) A change in the expected year of final closure if other permit or license conditions are not changed.
- (f) The addition of a roof to a container unit without altering the containment system.
- (g) The replacement of a tank with a tank that is in compliance with the same design standards, has the same capacity of the replaced tank, and is in compliance with the same conditions in the permit or license, or both.
- (h) The replacement of a waste pile unit with another waste pile unit of the same design and capacity and which is in compliance with all the waste pile conditions in the permit or license, or both.
- (i) Any of the following land treatment modification:
  - (i) A decreased rate of waste application.
  - (ii) A change in any condition specified in the permit or license for a land treatment unit to reflect the results of the land treatment demonstration if performance standards are met and if the prior written approval of the director is obtained.
  - (iii) A change to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, if the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and if the prior written approval of the director is obtained.
- (j) Any of the following incinerator, boiler, or industrial furnace modifications:
  - (i) Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operation readiness after construction if the prior written approval of the director is obtained.
  - (ii) A change in the operating requirements specified in the permit or license for conducting a trial burn, if the change is minor and if the prior written approval of the director is obtained.
  - (iii) A change in the ranges of the operating requirements specified in the permit or license to reflect the results of the trial burn, if the change is minor and if the prior written approval of the director is obtained.
  - (iv) Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit or license if the prior written approval of the director is obtained.
  - (v) Technology changes necessary to meet the standards under 40 C.F.R. part 63, subpart EEE, if the owner or operator complied with the notification of intent to comply requirements of 40 C.F.R. §63.1210 that were in effect before October 11, 2000, and if prior written approval is obtained from the director.
- (6) For minor permit modifications or minor license modifications, the permittee or licensee shall do both of the following:
  - (a) Notify the director concerning the minor modification by certified mail or other means that establish proof of delivery. For minor modifications that do not require the prior written approval of the director,

the notification shall be made within 7 calendar days after the change is put into effect. For minor modifications that do require the prior written approval of the director, the notification shall be made before the change is put into effect. The notification shall be in compliance with all of the following provisions:

- (i) Contain a minor modification request for the director's approval, if required.
  - (ii) Specify the exact change or changes being made or to be made to the permit or license conditions or supporting documents referenced by the permit or license.
  - (iii) Identify that the modification is a minor modification.
  - (iv) Explain why the modification is necessary.
  - (v) Provide the applicable information required pursuant to R 299.9504 and R 299.9508, as appropriate.
- (b) Send a notice of the minor modification to all persons on the facility mailing list that is maintained by the director pursuant to 40 C.F.R. §124.10(c)(viii) and the appropriate units of state and local government pursuant to 40 C.F.R. §124.10(c)(ix). The notification shall be made within 90 days after the change is put into effect. For minor modifications that require the prior written approval of the director, the notification shall be made within 90 calendar days after the director approves the minor modification request.
- (7) Any person may request that the director review any minor permit modification or minor license modification. The director may reject for cause. The director shall inform the permittee or licensee by certified mail that a minor permit modification or minor license modification has been rejected and explain the reasons for the rejection. If a minor permit modification or minor license modification is rejected, the permittee or licensee shall comply with the existing permit or license conditions.
- (8) For minor permit modifications or minor license modifications, the permittee or licensee may elect to follow the procedures specified in R 299.9511 instead of the minor permit modification or minor license modification procedures. The permittee or licensee shall inform the director of this decision in the notice that is required in subrule (6) of this rule.
- (9) Any modification that is not specifically listed in subrule (5) of this rule shall be considered a major permit modification or major license modification and shall be subject to the requirements of R 299.9511 and R 299.9520, unless all of the following conditions are met:
- (a) The licensee or permittee demonstrates, to the director's satisfaction, that a modification is in compliance with the criteria for a minor modification. In determining the appropriate classification for a modification, the director shall consider the similarity of the modification to other modifications listed in subrule (5) of this rule. Minor modifications apply to minor changes that keep the permit or license current with routine changes to the facility or its operation. These changes do not substantially alter the permit or license conditions or reduce the capacity of the facility to protect human health or the environment.
  - (b) The modification does not authorize the physical construction of a new treatment, storage, or disposal facility; the expansion or enlargement beyond the previously authorized design capacity or area of a treatment, storage, or disposal facility; or the alteration of the method of treatment or disposal previously authorized at a treatment, storage, or disposal facility to a different method of treatment or disposal.
  - (c) The classification of the modification is not less stringent than that allowed pursuant to RCRA.
- (10) For major permit modifications or major license modifications, the permittee or licensee shall submit a major modification request to the director by certified mail or by other means that establish proof of delivery. The request shall be made before the change is put into effect. The request shall be in compliance with all of the following provisions:
- (a) Describe the exact change or changes to be made to the permit or license conditions or supporting documents referenced by the permit or license.
  - (b) Identify that the modification is a major modification.

- (c) Explain why the modification is necessary.
- (d) Provide the applicable information required pursuant to R 299.9504 and R 299.9508, as appropriate.
- (11) A construction permit or operating license may be revoked for any of the following reasons:
  - (a) Noncompliance by the permittee or licensee with part 111 of the act, these rules, or any condition of the construction permit or operating license.
  - (b) A determination that the licensed activity endangers human health or the environment.
  - (c) The owner or operator fails in the application or during the construction permit or operating license issuance process to disclose fully all relevant facts or at any time misrepresents any relevant facts.
- (12) Requests for construction permit or operating license modification by a permittee or licensee and updated applications requested by the director pursuant to subrule (2) of this rule shall be made on forms provided by the director.
- (13) An operating license may be suspended pursuant to act 306.
- (14) The provisions of 40 C.F.R. §270.41(a), except 40 C.F.R. §270.41(a)(3), are adopted by reference in R 299.11003.

## **PART 6. OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES**

### **R 299.9601 Applicability; relationship to interim status standards.**

- Rule 601. (1) The standards in this part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as otherwise specifically provided in these rules.
- (2) Treatment, storage, or disposal facilities which are authorized to operate pursuant to these rules and which have not been issued or reissued an operating license after the effective date of these rules shall be in compliance with all of the following rules:
- (a) R 299.9602 Environmental and human health standards generally.
  - (b) R 299.9607 Contingency plan and emergency procedures.
  - (c) R 299.9608 Use of manifest system.
  - (d) R 299.9609 Operating record; retention and disposition of records.
  - (e) R 299.9610 Reporting.
  - (f) R 299.9613(2) to (6) Closure and postclosure.
  - (g) R 299.9614 Use and management of containers.
  - (h) R 299.9615 Tank systems.
  - (i) R 299.9623 Incinerators.
  - (j) R 299.9627 Land disposal restrictions.
  - (k) R 299.9629 Corrective action.
  - (l) R 299.9635 Corrective action management unit requirements.
  - (m) R 299.9636 Temporary unit requirements.
  - (n) R 299.9637 Hazardous waste munitions and explosives storage.
  - (o) R 299.9638 Staging pile requirements.
  - (p) R 299.9639 Disposal of corrective action management unit-eligible waste in hazardous wastes landfills.

In addition to the requirements specified in subrule (2) of this rule, the following persons shall comply with the interim status standards of 40 C.F.R. part 265, except subparts D, E, H, I, J, O, and DD, and 40 C.F.R. §§265.112(d)(1), 265.115, and 265.120:

- (a) An owner or operator of an existing facility that treats, stores, or disposes of hazardous waste who has fully complied with the requirements for interim status pursuant to section 3005(e) of RCRA and 40 C.F.R. §270.10, until final administrative disposition of the owner's or operator's permit application

pursuant to RCRA or until an operating license is issued or reissued to the owner or operator after the effective date of these rules.

(b) An owner or operator of a facility that is in existence on November 19, 1980, or that is in existence on the effective date of amendments to part 111 of the act or these rules that render it subject to the licensing requirements of part 111 of the act, who has failed to provide timely notification as required by section 3010(a) of RCRA or failed to file part A of the permit application as required pursuant to 40 C.F.R. §270.10(e) and (g).

(4) The requirements of this part apply to a person who disposes of hazardous waste by means of underground injection subject to a permit issued pursuant to an underground injection control program approved or promulgated under the federal safe drinking water act only to the extent that these requirements are included in R 299.9503(3)(a).

(5) The requirements of this part apply to the owner or operator of a publicly owned treatment works that treats, stores, or disposes of hazardous waste only to the extent that these requirements are included in R 299.9503(3)(b).

(6) The standards in this part do not apply to those persons who are listed in R 299.9503(1) and (2), except as otherwise specified by those subrules.

(7) Except as noted in this subrule, part 6 of the rules does not apply to owners and operators of hazardous waste incinerator facilities identified in subrule (2) of this rule if the owner or operator demonstrates compliance with the maximum achievable control technology standards of 40 C.F.R. part 63, subpart EEE by conducting a comprehensive performance test and submitting to the director a notification of compliance under 40 C.F.R. §§63.1207(j) and 63.1210(b) which documents compliance with the requirements of 40 C.F.R. part 63, subpart EEE. The maximum achievable control technology standards of 40 C.F.R. part 63, subpart EEE do not supersede the requirements of R 299.9608 to R 299.9610 and part 7 of these rules, and 40 C.F.R. part 265, subparts A to D, F, G, BB, and CC.

(8) Notwithstanding any other provisions of these rules, enforcement actions may be brought pursuant to section 48 of part 111 of the act.

(9) The provisions of 40 C.F.R. §270.10 and 40 C.F.R. part 265, except subparts E, H, O, and DD, and 40 C.F.R. §§265.112(d)(1), 265.115, and 265.120, are adopted by reference in R 299.11003. Where provisions of 40 C.F.R. parts 264, 265, and 270 are referenced in this part, the word "director" shall replace the term "regional administrator" and the words "operating license" shall replace the word "permit." For the purposes of this adoption, the word "R 299.9629" shall replace the word "40 C.F.R. §264.101(a)," the words "part 5 of these rules" shall replace the word "40 C.F.R. §270.1(c)(7)," and the words "R 299.9703(8) and R 299.9710(17)" shall replace the word "40 C.F.R. §265.140(d)," and the words "R 299.9612 and R 299.9629" shall replace the words "40 C.F.R. §§264.91 through 264.100."

#### **R 299.9607 Contingency plan and emergency procedures.**

Rule 607. (1) Owners or operators of hazardous waste treatment, storage, and disposal facilities shall maintain a contingency plan for the facility and comply with 40 C.F.R. part 264, subpart D, regarding the plan and emergency procedures, unless otherwise specified in this rule.

(2) If there is a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment, or if the owner or operator has knowledge that a spill has reached surface water or groundwater, then the owner or operator shall immediately notify the department's pollution emergency alerting system - telephone number 800-292-4706. The notification shall include all of the following information:

(a) The name and telephone number of the person who is reporting the incident.

(b) The name, address, telephone number, and site identification number of the facility.

(c) The name, address, and telephone number of the owner or operator.

- (d) The date, time, and type of incident.
  - (e) The name and quantity of the material or materials involved and released.
  - (f) The extent of injuries, if any.
  - (g) The estimated quantity and disposition of recovered material that resulted from the incident, if any.
  - (h) An assessment of actual or potential hazards to human health or the environment.
  - (i) The immediate response action taken.
- (3) The requirements of 40 C.F.R. part 264, subpart D do not apply to remediation waste management sites, other than those sites which are located at facilities that are subject to the permitting or licensing requirements under part 111 of the act and these rules because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes, provided that the owners or operators of the remediation waste management sites comply with 40 C.F.R. §264.1(j)(1) to (13).
- (4) The provisions of 40 C.F.R. part 264, subpart D, and §264.1(j)(1) to (13) are adopted by reference in R 299.11003. For the purposes of the adoption of 40 C.F.R. §264.56(j) and §264.1(j)(1) to (13), the word "director" shall replace the words "regional administrator" and the word "R 299.9629" shall replace the word "§264.101," respectively.

**R 299.9608 Use of manifest system.**

Rule 608. (1) If a facility receives hazardous waste accompanied by a manifest, then the owner or operator, or his or her agent, shall do all of the following:

- (a) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received.
  - (b) Note any significant discrepancies in the manifest on each copy of the manifest.
  - (c) Immediately give the transporter at least 1 copy of the signed manifest.
  - (d) Within 30 days after the delivery, send a copy of the manifest to the generator.
  - (e) Retain, at the facility, a copy of each manifest for not less than 3 years from the date of delivery.
  - (f) Return a copy of the manifest to the director or his or her designee within a period of 10 days after the end of the month in which the waste was received.
- (2) If a facility receives a bulk shipment of hazardous waste from a rail or water transporter which is accompanied by a shipping paper containing all the information required on the manifest, excluding the site identification numbers, generator's certification, and signatures, then the owner or operator, or the owner or operator's agent, shall do all of the following:
- (a) Sign and date each copy of the manifest or shipping paper to certify that the hazardous waste covered by the manifest or shipping paper was received.
  - (b) Note any significant discrepancies in the manifest or shipping paper on each copy of the manifest and shipping paper.
  - (c) Immediately give the rail or water (bulk shipment) transporter at least 1 copy of the manifest or shipping paper.
  - (d) Within 30 days after the delivery, send a copy of the signed and dated manifest to the generator; or, if the manifest has not been received within 30 days after delivery, send a copy of the shipping paper signed and dated to the generator.
  - (e) Retain, at the facility, a copy of the manifest and shipping paper, for not less than 3 years from the date of delivery.
  - (f) Return a copy of the manifest to the director or his or her designee within a period of 10 days after the end of the month in which the waste was received.
- (3) If a shipment of hazardous waste is initiated from a facility, then the owner or operator of that facility shall comply with the requirements of part 3 of these rules.

(4) Upon discovering a significant manifest discrepancy, the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter through telephone conversations or otherwise. If the discrepancy is not resolved within 15 days after receiving the waste, then the owner or operator shall immediately submit, to the director and regional administrator, a letter describing the discrepancy and attempts to reconcile it and a copy of the manifest or shipping paper at issue. Significant manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper and the quantity or type of hazardous waste a facility actually receives, as follows:

- (a) For bulk waste, significant discrepancies are variations of more than 10% in weight.
- (b) For batch waste, a significant discrepancy is any variation in piece count, such as a discrepancy of 1 drum in a truckload.
- (c) Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid or toxic constituents not reported on the manifest or shipping paper.

(5) A significant manifest discrepancy, as specified in this rule, which results in a total or partial rejected shipment requires all of the following:

(a) For a total rejected shipment, the owner or operator shall comply with all of the following requirements:

- (i) Indicate on the original manifest, the reason for the rejection and the date of rejection and signature.
- (ii) Leave the facility owner or operator certification of receipt portion of the original manifest unsigned and undated.

(iii) Retain the facility copy of the original manifest.

(iv) Obtain acknowledgement of receipt by having the transporter sign and date the original manifest.

(v) Return the remaining copies of the original manifest to the transporter.

(b) For a partial rejected shipment, the owner or operator shall comply with all of the following requirements:

(i) Obtain permission from the generator to receive a portion of the original shipment.

(ii) Indicate on the original manifest, the reason for the rejection, the quantity of waste rejected, and the name of the generator contact authorizing the receipt of a portion of the original shipment.

(iii) Line out the total quantity of waste information on the original manifest and note the new quantity of waste that is being accepted at the facility.

(iv) Obtain acknowledgement of receipt by having the transporter sign and date the original manifest.

(v) Complete the facility owner or operator certification of receipt portion of the original manifest.

(vi) Distribute copies of the manifest pursuant to subrules (1) and (2) of this rule.

(6) Within 3 working days of the receipt of a shipment subject to R 299.9312, the owner or operator shall provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, and Targeting and Data Division (2222A), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460, and to competent authorities of all other concerned countries. The owner or operator shall maintain the original copy of the tracking document at the facility for not less than 3 years from the date of signature.

(7) The requirements of this rule do not apply to owners or operators of off-site facilities with respect to waste military munitions exempted from manifesting requirements under R 299.9818.

#### **R 299.9610 Reporting.**

Rule 610. (1) The owner or operator shall prepare and submit 1 copy of a biennial report to the director or the director's designee by March 1 of each even numbered year. The owner or operator shall

submit the biennial report on a form and in a format specified by the director or the director's designee. The report shall cover facility activities during the previous calendar year and shall include all of the information specified in 40 C.F.R. §264.75(a) to (j).

(2) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, and if the waste is not excluded from the manifest requirement by R 299.9205, then the owner or operator shall prepare and submit a single copy of a report to the director or his or her designee within 15 days after receiving the waste. The unmanifested waste report shall be submitted on a form approved by the director. The report shall be designated "Unmanifested Waste Report" and shall include all of the following information:

- (a) The site identification number, name, and address of the facility.
- (b) The date the facility received the waste.
- (c) The site identification number, name, and address of the generator and the transporter, if available.
- (d) A description and the quantity of each unmanifested hazardous waste and facility received.
- (e) The method of treatment, storage, or disposal for each hazardous waste.
- (f) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

(g) A brief explanation of why the waste was unmanifested, if known.

(3) The owner or operator of a hazardous waste treatment or disposal facility on the site of generation shall submit a monthly report to the director or his or her designee, on forms provided by the director, which summarizes all managed hazardous wastes treated or disposed of, including the hazardous waste number of the wastes, quantity, method of treatment or disposal, and dates of treatment or disposal. The report shall be submitted to the director within 10 days after the end of each month.

(4) All reports shall be signed and certified pursuant to 40 C.F.R. §270.11, which is adopted by reference in R 299.11003.

#### **R 299.9614 Use and management of containers.**

Rule 614. (1) Owners or operators of all hazardous waste facilities that store containers of hazardous waste shall do both of the following:

(a) Comply with all requirements of 40 C.F.R. part 264, subpart I. If the owner or operator is unable to comply with 40 C.F.R. §264.176 or the authority having jurisdiction determines that an alternative to the requirements of 40 C.F.R. §264.176 is more protective of human health and the environment, then compliance with 40 C.F.R. §264.176 is considered achieved by meeting the requirements of the fire prevention code and its rules. A copy of an approval letter indicating that the containers are stored in compliance with the fire prevention code and signed by the authority having jurisdiction shall be maintained at the facility.

(b) Ensure that each container is labeled or marked clearly with the words "Hazardous Waste" and the hazardous waste number.

(2) The provisions of 40 C.F.R. part 264, subpart I, are adopted by reference in R 299.11003.

#### **R 299.9619 Landfills.**

Rule 619. (1) Owners or operators of facilities that use landfills to dispose of hazardous waste shall comply with the design and operating requirements of 40 C.F.R. part 264, subpart N, except 40 C.F.R. §264.301(f).

(2) In addition to the liner system requirements of 40 C.F.R. §264.301, the owner or operator of a landfill shall design the liner system to meet the requirements of R 299.9620.

(3) All landfills shall contain a leak detection, collection, and removal system beneath the liner system that is designed, constructed, operated, and maintained pursuant to R 299.9622, unless the landfill is exempted pursuant to R 299.9622.

- (4) In addition to the requirements of 40 C.F.R. §264.301(a), the leachate collection and removal system shall include all of the following:
- (a) Not less than 30 centimeters of granular material that has a permeability of  $1 \times 10^{-2}$  cm/second or greater, as determined by ASTM standard no. D2434-68, or a layer of geosynthetic drainage materials with a transmissivity of  $3 \times 10^{-5}$  m<sup>2</sup>/second or greater covered by a minimum of 30 centimeters of a protective layer of granular material with a permeability of  $1 \times 10^{-3}$  cm/second or greater, as determined by ASTM standard no. D2434-68.
  - (b) Either of the following:
    - (i) Provisions for discharging the leachate directly to a wastewater treatment unit.
    - (ii) Provisions for storing the quantity of leachate that is expected to be generated from all cells during a 24-hour, 100-year storm.
  - (c) Leachate sumps that have all of the following:
    - (i) A volume that can properly maintain a leachate head of no more than 30 centimeters (12 inches) on the liner.
    - (ii) A leachate removal system to remove liquid from the sump.
    - (iii) A device for continuously monitoring the quantity of leachate in the sump and removed from the landfill.
- (5) The director may approve alternate design or operating practices to those specified in subrule (4) of this rule if the owner or operator demonstrates to the director that such design and operating practices, together with location characteristics, comply with both of the following requirements:
- (a) The alternate design and operating practices shall prevent the migration of any hazardous constituent into the groundwater or surface water at least as effectively as the leachate collection and removal systems specified in subrule (4) of this rule.
  - (b) The alternate design and operating practices shall allow the detection of leaks of hazardous constituents through the top liner at least as effectively as the leachate collection and removal systems specified in subrule (4) of this rule.
- (6) In addition to the closure and postclosure care requirements of 40 C.F.R. §264.310, the owner or operator of a landfill shall do all of the following with respect to closure and postclosure care:
- (a) Close the facility so that the final cover includes all of the following unless the owner or operator substitutes an equivalent design which shall include a flexible membrane liner component with a minimum thickness of 1 millimeter (40 mil), depending on the type of material selected, and demonstrates to the director that it provides equivalent environmental protection:
    - (i) Compacted clay which is in compliance with the requirements of R 299.9620(3) and which is not less than 90 centimeters thick.
    - (ii) A flexible membrane liner shall be placed directly over the compacted clay layer required pursuant to subdivision (i).
    - (iii) Not less than 60 centimeters of additional material, such as topsoil, subsurface drainage media, or cobbles to prevent animal burrowing. The additional material shall be applied in a manner that protects the clay and any synthetic component from the effects of temperature, erosion, and rooted vegetation. For temperature protection, the additional material thickness shall equal not less than 60 centimeters or the maximum depth of frost penetration, whichever is greater. In order to provide a minimum base for root penetration, the top component of the additional material shall consist of not less than 15 centimeters of topsoil.
    - (iv) Slopes of the barrier layer, the drainage layer, and the top of the cover system shall not be less than 4% at any location.
  - (b) Establish shallow-rooted grasses at the earliest possible time and maintain the vegetation or use other erosion control measures so as to stabilize the cap and prevent erosion. Erosion shall be limited to not more than 2 tons per acre per year based on the universal soil loss equation.



(c) Establish a venting system to prevent the accumulations of gas. The venting system shall be installed in a manner that does not adversely affect the permeability of the cap and, if required pursuant to part 55 of the act, gas emissions shall be monitored, collected, and treated. The director shall exempt the owner or operator from this requirement if the owner or operator demonstrates that gas will not be generated in the landfill.

(7) The director may approve alternative designs and maintenance practices to those specified in subrule (6) of this rule for beneficial uses of closed landfills if the owner or operator demonstrates to the director that such designs and maintenance practices for the landfill cover system will provide equivalent environmental protection.

(8) The provisions of 40 C.F.R. part 264, subpart N, except 40 C.F.R. §264.301(f), are adopted by reference in R 299.11003. For the purposes of this adoption, the word "director" shall replace the words "regional administrator."

### **R 299.9623 Incinerators.**

Rule 623. (1) Owners and operators of facilities that incinerate hazardous waste shall comply with all requirements of this rule, except as subrule (2) of this rule provides otherwise. The following facility owners or operators are considered to incinerate hazardous waste:

(a) Owners or operators of hazardous waste incinerators as defined in R 299.9104.

Owners or operators who burn hazardous waste in boilers or in industrial furnaces to destroy the wastes.

(2) Except as noted in this subrule and subrule (3) of this rule, part 6 of the rules does not apply to owners and operators of facilities that incinerate hazardous waste if the owner or operator demonstrates compliance with the maximum achievable control technology standards of 40 C.F.R. part 63, subpart EEE by conducting a comprehensive performance test and submitting to the director a notification of compliance under 40 C.F.R. §§63.1207(j) and 63.1210(b) which documents compliance with the requirements of 40 C.F.R. part 63, subpart EEE. Nevertheless, even after this compliance demonstration is made, the operating license conditions that are based on the standards of part 6 of the rules will continue to be in effect until they are removed from the operating license or the operating license is terminated or revoked, unless the operating license expressly provides otherwise.

(3) The maximum achievable control technology standards of 40 C.F.R. part 63, subpart EEE, do not supersede any of the following requirements:

(a) R 299.9601, R 299.9605 to R 299.9610, R 299.9612, R 299.9613, R 299.9630, R 299.9631, and part 7 of these rules.

(b) The particulate matter standard of 40 C.F.R. §264.343(c), if the owner or operator elects to comply with the alternative to the particulate standard of 40 C.F.R. §63.1206(b)(14).

(c) The following requirements remain in effect for startup, shutdown, and malfunction events even if a person elects to comply with 40 C.F.R. §270.235(a)(1)(i) to minimize emissions of toxic compounds from these events:

(i) The requirements of 40 C.F.R. §264.345(a) which require that an incinerator operate pursuant to the operating requirements specified in the operating license.

(ii) The requirements of 40 C.F.R. §264.345(c) which require compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

(4) Owners and operators of facilities that incinerate hazardous waste shall comply with 40 C.F.R. part 264, subpart O, except 40 C.F.R. §264.340(a) to (d) and 264.344(a)(2) and (b). (5) The owner or operator of a hazardous waste incinerator shall burn only wastes specified in his or her operating license and only under operating conditions specified for those wastes under this rule, except in approved trial

burns or trial operations. Other hazardous wastes may be burned only after operating conditions have been specified in a construction permit or operating license. Operating requirements for new wastes may be based on either trial burn results or alternative data included with the construction permit or operating license application.

(6) If the owner or operator of a new hazardous waste incinerator conducts a trial burn before application for an operating license, the construction permit for the hazardous waste incinerator shall establish appropriate conditions for each of the applicable requirements of this part, including, but not limited to, allowable waste feeds and operating conditions necessary to meet the requirements of 40 C.F.R. §264.345 and sufficient to comply with 40 C.F.R. §264.344(c)(1) and (2) for the period before and during the trial burn.

(7) The director may require trial operation of an incinerator and the submittal of a trial operations plan containing the information specified in 40 C.F.R. §270.62(b)(2) under the following circumstances:

(a) Before the renewal of an incinerator's operating license under part 111 of the act.

(b) Before the licensing of an incinerator newly subjected to the license requirements of part 111 of the act and these rules.

(c) Before the approval of new waste types through an operating license modification.

(d) The director has evidence that an incinerator may be emitting hazardous constituents in quantities which violate part 55 of the act or these rules.

(8) The requirements of 40 C.F.R. §270.62(a) to (d) shall apply to facilities incinerating hazardous waste, except as otherwise provided in these rules.

(9) An incinerator burning hazardous waste shall be designed, constructed, and maintained so that it will comply with part 55 of the act.

(10) The director may, in addition, specify one or more principal organic hazardous constituents from the lists of hazardous waste or hazardous constituents contained in tables 201 to 206 of these rules.

(11) The provisions of 40 C.F.R. part 63, subpart EEE; 40 C.F.R. part 261, appendix VIII; 40 C.F.R. part 264, subpart O, except 40 C.F.R. §264.340(a) to (d) and §264.344(a)(2) and (b); and 40 C.F.R. §§270.62(a) to (d) and 270.235(a)(1)(i), are adopted by reference in R 299.11003. For the purposes of this adoption, the references to "§124.10" shall be replaced with "R 299.9511," "270.19" shall be replaced with "R 299.9504," "§270.42" shall be replaced with "R 299.9519," and the word "permit" shall be replaced with "operating license."

**R 299.9624 Rescinded.**

**R 299.9625 Rescinded.**

**R 299.9626 Rescinded.**

**R 299.9629 Corrective action.**

Rule 629. (1) Owners or operators of facilities that treat, store, or dispose of hazardous waste shall conduct corrective action as necessary to protect the public health, safety, welfare, and the environment pursuant to a corrective action program approved by the director, unless otherwise specified in this rule. The corrective action program shall be conducted as follows:

(a) Owners or operators of facilities that apply for, or have been issued, an operating license pursuant to part 111 of the act shall institute corrective action for all releases of a contaminant from any waste management units at the facility, regardless of when the contaminant may have been placed in or released from the waste management unit.

(b) Owners or operators of facilities that are not included in subdivision (a) of this subrule and for which the owner or operator, or both, is or was subject to the interim status requirements defined in RCRA, except for facilities that have received formal written approval of the withdrawal of their EPA part A hazardous waste permit application from the director or the EPA, shall institute corrective action for all releases of hazardous waste from the facility, regardless of when the hazardous waste may have been placed in or released from the facility.

(2) Owners or operators shall implement corrective action beyond the facility boundary if the releases referenced in subrule (1) of this rule have or may have migrated, or otherwise have or may have been emitted, beyond the facility boundary, unless the owner or operator demonstrates, to the satisfaction of the director, that, despite the owner's or operator's best efforts, the owner or operator is unable to obtain the necessary permissions to undertake such actions. The owner or operator shall not be relieved of all responsibility to clean up a release that has migrated or been emitted beyond the facility boundary where off-site access is denied. On-site measures to address such releases shall be determined on a case-by-case basis. Assurances of financial responsibility for such corrective action shall be provided.

(3) The owners or operators who are required to establish a corrective action program pursuant to part 111 of the act and these rules shall, at a minimum, do the following, as applicable:

(a) For facilities that are specified in subdivision (a) of subrule (1) of this rule, the owner or operator, or both, shall take corrective action to ensure compliance with the groundwater protection standards, and, if necessary, other applicable environmental protection standards, established by the director. The director shall specify in a permit, operating license, postclosure operating license, consent order, or other order, pursuant to this rule and R 299.9635 and R 299.9636, schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action and other requirements, including, any of the following:

(i) A list of the hazardous wastes and hazardous constituents. The list of hazardous constituents are identified pursuant to 40 C.F.R. §264.93.

(ii) The groundwater protection standards which are expressed as concentration limits that are established pursuant to R 299.9612(1)(d) or as concentration limits established pursuant to part 31 or part 201 of the act if the limits are not less stringent than allowed pursuant to RCRA.

(iii) The environmental protection standards which are necessary for the cleanup and protection of soil, surface water, sediments, and ambient air that are established pursuant to part 201 of the act if the limits are not less stringent than allowed pursuant to RCRA.

(iv) The compliance point or points at which the standards apply and at which monitoring shall be conducted, which for groundwater are specified pursuant to 40 C.F.R. §264.95.

(v) The compliance period, which for groundwater is specified pursuant to 40 C.F.R. §264.96.

(vi) The restoration and mitigation measures that are necessary to mitigate damage to the natural resources of the state, including wildlife, fish, wetlands, or other ecosystems.

(b) For facilities that are specified in subdivision (b) of subrule (1) of this rule, the owner or operator, or both, shall take corrective action to ensure compliance with the groundwater protection standards, and, if necessary, other applicable environmental protection standards, established by the director. The director shall specify in a consent order or other order, pursuant to this rule and R 299.9635 and R 299.9636, schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action and other requirements, including, any of the following:

(i) A list of the hazardous wastes and hazardous waste constituents.

(ii) The groundwater protection standards which are expressed as concentration limits that are established pursuant to part 31 or part 201 of the act if the limits are not less stringent than allowed pursuant to RCRA.

- (iii) The environmental protection standards which are necessary for the cleanup and protection of soil, surface water, sediments, and ambient air that are established pursuant to part 201 of the act if the limits are not less stringent than allowed pursuant to RCRA.
- (iv) The compliance point or points at which the standards apply and at which monitoring shall be conducted.
- (v) The compliance period.
- (vi) The restoration and mitigation measures that are necessary to mitigate damage to the natural resources of the state, including wildlife, fish, wetlands, or other ecosystems.
- (4) The owner or operator shall implement a corrective action program that prevents contaminants, hazardous wastes, or hazardous waste constituents, as provided for in subrule (1) of this rule, from exceeding their respective protection standards or concentration limits at the compliance point by removing the contaminants, hazardous wastes, or hazardous waste constituents or treating them in place.
- (5) For facilities that are conducting a groundwater compliance monitoring program at the time a permit, operating license, postclosure operating license, consent order, or other order is issued or entered, the owner or operator shall begin groundwater corrective action within a reasonable time period after the groundwater protection standard is exceeded. The director shall specify the time period in the permit, operating license, postclosure operating license, consent order, or other order. If a permit, operating license, postclosure operating license, consent order, or other order includes a groundwater corrective action program in addition to a compliance groundwater monitoring program, then the operating license, postclosure operating license, consent order, or other order shall specify when the corrective action groundwater program will begin and the corrective action groundwater program shall operate in place of the compliance groundwater monitoring program.
- (6) In conjunction with a groundwater corrective action program, the owner or operator shall establish and implement a groundwater monitoring program to demonstrate the effectiveness of the groundwater corrective action program. The monitoring program may be based on the requirements for a compliance groundwater monitoring program and shall be as effective as that program in determining compliance with the groundwater protection standards specified in the permit, operating license, postclosure operating license, consent order, or other order and in determining the success of a corrective action program pursuant to the provisions of subrule (8) of this rule, where appropriate. All wells installed to monitor, evaluate, or remediate groundwater shall be constructed and abandoned in accordance with the well installation and well decommissioning procedures in ASTM standards D5092-90 and D5299-92, or a plan approved by the director.
- (7) If there is an exceedance of a groundwater surface water interface standard based on acute toxicity and established pursuant to part 201 and part 31 of the act, at any of the groundwater surface water interface compliance monitoring wells required by these rules and approved by the department, then the owner or operator shall immediately do all of the following:
  - (a) Provide the department with written notification of the exceedance within 7 days of obtaining knowledge and confirmation that the exceedance is occurring or within 30 days of the effective date of this rule, whichever is later.
  - (b) Within 60 days of the date on which the notice in subdivision (a) of this subrule is required, do 1 or more of the following, unless an extension of a submittal or implementation deadline is approved by the department. In reviewing extension requests, the department shall consider the progress of any corrective action to date, whether or not site conditions inhibit corrective action implementation, whether or not the extension would adversely impact surface water resources, and the nature and extent of the exceedances.
    - (i) Implement interim actions to prevent exceedances at the monitoring wells referenced in this subrule and submit to the department a proposal and schedule for completing corrective action to prevent a discharge that exceeds the standard.

(ii) Provide the department with written notification of the owner or operator's intent to propose another compliance monitoring point if one has yet not been approved by the department. The notification shall include a schedule for submission of the proposal for department approval. The department may approve the schedule as submitted or direct reasonable modifications in the schedule. The proposal for another compliance monitoring point shall include all of the following:

(A) A demonstration that the proposed compliance monitoring points are more representative of the venting groundwater and allow a more accurate calculation of the discharge rate, in cubic feet per second, of that portion of the venting groundwater plume that exceeds, or is likely to exceed in the future, a groundwater surface water interface standard, than existing compliance monitoring wells.

(B) A demonstration that the locations where venting groundwater enters surface water have been comprehensively identified.

(C) A demonstration that the proposed compliance monitoring point allows for venting groundwater to be sampled before mixing with surface water.

(D) A demonstration that the proposed compliance monitoring point allows for reliable, representative monitoring of groundwater quality.

(E) Identification and documentation of the chemical, physical, or biological processes that result in the reduction of hazardous constituents between the original compliance monitoring wells required by these rules and the proposed compliance monitoring points.

(F) Consideration of changes in groundwater flow conditions so that samples collected from the proposed compliance monitoring point are representative of groundwater flowing to the surface water. The proposed compliance monitoring points may be located in a floodplain.

(G) Identification of any sentinel monitoring points that will be used in conjunction with the proposed compliance monitoring point to assure that any potential exceedance of an applicable water quality standard can be identified with sufficient notice to allow additional corrective action to be implemented that will prevent the exceedance. Sentinel monitoring points shall include, at a minimum, the original compliance monitoring wells required by these rules.

(iii) Provide the department with written notification of the owner or operator's intent to propose a site-specific standard under MCL 324.20120a(2). The notification shall include a schedule for submission of the proposal for department approval. The department may approve the schedule as submitted or direct reasonable modifications in the schedule.

(c) If the owner or operator does not implement an effective corrective action; submit the notices, proposals, and schedules required in subdivision (b) of this subrule; or comply with the schedules established under subdivision (b) of this subrule; and no extension was approved by the department, the owner or operator shall continue implementation of interim actions to prevent the exceedance until another compliance monitoring point or site-specific standard is approved by the department, or if the proposal is not approved by the department, until a different corrective action is implemented to protect the surface water. If another compliance monitoring point was approved by the department before detection of the exceedance in that compliance monitoring point, corrective action shall continue as long as there is a reasonable potential for an exceedance to occur, or until a different corrective action is implemented to protect the surface water. The owner or operator shall document the interim actions taken to prevent the exceedance and their effectiveness during the time that the department is reviewing a proposal. If the proposal required under paragraph (ii) of subdivision (b) of this subrule does not adequately document the interim actions required to satisfy this rule, it shall be considered incomplete and the department shall not make a decision on the proposal.

(8) In addition to the other requirements of this rule, the owner or operator shall conduct a corrective action program to remove or treat in place any contaminants, hazardous wastes, and hazardous waste constituents, as provided for in subrule (1) of this rule, that exceed the groundwater protection standards or other environmental protection standards that are specified by the director as follows:

- (a) Between the compliance points that are established pursuant to subrule (3)(a)(iv) and (b)(iv) of this rule and the downgradient property boundary and beyond the facility boundary in accordance with subrule (2) of this rule.
- (b) Corrective action measures that are undertaken pursuant to this rule shall be initiated and completed within a reasonable period of time considering the extent of contamination.
- (c) Corrective action measures that are pursuant to this rule may be terminated once the environmental protection standards specified by the director in the facility permit, operating license, postclosure operating license, consent order, or other order have been achieved for the required period.
- (9) The owner or operator shall continue corrective action measures during the compliance period to the extent necessary to ensure that the environmental protection standards are not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, then corrective action shall continue for as long as necessary to achieve compliance with the environmental protection standards. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area, including the closure period, if the owner or operator can demonstrate that the environmental protection standards have been achieved for the required period.
- (10) The owner or operator shall report, in writing, to the director, on the effectiveness of the corrective action program pursuant to the schedule specified in the permit, operating license, postclosure operating license, consent order, or other order, but not less than semiannually.
- (11) If an owner or operator determines that the corrective action program does not satisfy the requirements of these rules, he or she shall, pursuant to the permit, operating license, postclosure operating license, consent order, or other order, submit an application for a permit or license modification or request a modification or termination of appropriate sections of any consent order or other order.
- (12) The requirements of this rule do not apply to remediation waste management sites unless they are part of a facility subject to the permitting or licensing requirements under part 111 of the act and these rules because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes.

**R 299.9635 Corrective action management unit requirements.**

Rule 635. (1) Unless otherwise specified in this rule, corrective action management units shall be subject to all of the requirements of this rule.

(2) Corrective action management units that were approved before April 22, 2002, or for which substantially complete applications or equivalents were submitted to the department on or before November 20, 2000, shall only be subject to the requirements of this subrule. The waste, activities, and design associated with these grandfathered corrective action management units shall not be subject to subrules (3) to (20) of this rule provided the waste, activities, and design remain within the general scope of the corrective action management unit as approved. With respect to these grandfathered corrective action management units, the term corrective action management unit shall mean an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility. For the purposes of implementing corrective action remedies under part 111 of the act and these rules or implementing remedies at licensed facilities that are not subject to corrective action under part 111 of the act and these rules, the director may designate in a license or enforceable document an area of a facility as a corrective action management unit. Corrective action management units shall be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the corrective action management unit originated. One or more corrective action management units may be designated at a facility.

(3) For the purposes of implementing corrective action remedies under part 111 of the act and these rules or implementing remedies at licensed facilities that are not subject to corrective action under part 111 of the act and these rules, the director may designate in a license or enforceable document an area at a facility as a corrective action management unit. With respect to these corrective action management units, the term corrective action management unit means an area within a facility that is used only for managing corrective action management unit-eligible wastes for implementing corrective action or cleanup at the facility. A corrective action management unit shall be located within the contiguous property under the control of the owner or operator where the wastes to be managed in the corrective action management unit originated. One or more corrective action management units may be designated at a facility.

(4) The director may prohibit, where appropriate, the placement of waste in a corrective action management unit if the director has or receives information that the waste has not been managed in compliance with applicable land disposal treatment standards of 40 C.F.R. part 268 or applicable unit design requirements of part 6 of these rules, or that noncompliance with other applicable requirements of part 6 of these rules likely contributed to the release of the waste.

(5) The placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste, whether or not sorbents have been added, in any corrective action management unit is prohibited except where the placement of such waste facilitates the remedy selected for the waste. The requirements in R 299.9619 for placement of containers holding free liquids in landfills apply to placement in a corrective action management unit except where the placement facilitates the remedy selected for the waste. The placement of any liquid which is not a hazardous waste in a corrective action management unit is prohibited unless such placement facilitates the remedy selected for the waste or a demonstration is made pursuant to R 299.9619. The absence or presence of free liquids in either a containerized or a bulk waste shall be determined pursuant to R 299.9619. Sorbents used to treat free liquids in corrective action management units shall meet the requirements of R 299.9619.

(6) The placement of corrective action management unit-eligible wastes into or within a corrective action management unit does not constitute land disposal for the purposes of part 111 of the act or these rules.

(7) The consolidation or placement of corrective action management unit-eligible wastes into or within a corrective action management unit does not constitute the creation of a unit subject to the minimum technology requirements of these rules.

(8) The director may designate a hazardous waste management unit as a corrective action management unit or incorporate a hazardous waste management unit into a corrective action management unit provided both of the following requirements are met:

(a) The hazardous waste management unit is closed or the closure process under part 6 of these rules has been initiated.

(b) The inclusion of the hazardous waste management unit into the corrective action management unit will enhance the implementation of effective, protective, and reliable remedial actions for the facility.

(9) All of the following requirements that applied to the hazardous waste management unit continue to apply to that portion of a corrective action management unit containing the hazardous waste management unit regardless of the designation of the hazardous waste management unit as a corrective action management unit or the incorporation of the hazardous waste management unit into a corrective action management unit:

(a) R 299.9612.

(b) R 299.9629.

(c) 40 C.F.R. part 265, subpart F.

(d) R 299.9613.

(e) 40 C.F.R. part 265, subpart G.

(f) Part 7 of these rules.

(g) The unit-specific requirements of part 6 of these rules that applied to the hazardous waste management unit.

(10) In designating an area at a facility as a corrective action management unit the director shall ensure that the corrective action management unit meets all of the following requirements:

(a) The corrective action management unit facilitates the implementation of reliable, effective, protective, and cost-effective remedies.

(b) The waste management activities associated with the corrective action management unit do not create unacceptable risks to humans or to the environment which result from exposure to hazardous wastes or hazardous constituents.

(c) The corrective action management unit contains only contaminated areas of the facility unless the inclusion of uncontaminated areas of the facility for the purpose of managing corrective action management unit-eligible waste is more protective than management of such wastes at contaminated areas of the facility.

(d) Areas within the corrective action management unit where wastes will remain in place after closure of the unit are managed and contained so as to minimize future releases, to the extent practicable.

(e) The corrective action management unit expedites the timing of remedial activity implementation, when appropriate and practicable.

(f) The corrective action management unit enables the use, when appropriate, of treatment technologies to enhance the long-term effectiveness of the remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the unit.

(g) The corrective action management unit, to the extent practicable, minimizes the land area of the facility upon which wastes will remain in place after closure of the unit.

(11) The owner or operator shall provide the director with sufficient information to enable the director to designate a corrective action management unit pursuant to the criteria specified in this rule. Information on all of the following shall be included unless it is not reasonably available:

(a) The origin of the waste and how it was subsequently managed, including a description of the timing and circumstances surrounding the disposal or release.

(b) Whether the waste was listed or identified as hazardous at the time of disposal or release.

(c) Whether the disposal or release of the waste occurred before or after the land disposal requirements of 40 C.F.R. part 268 were in effect for the waste listing or characteristic.

The director shall specify all of the following information in the license or order for each corrective action management unit:

(a) The areal configuration of the corrective action management unit.

(b) Except as provided for in subrule (16) of this rule, the requirements for corrective action management unit-eligible waste management, including the specification of applicable design, operation, treatment, and closure requirements.

(c) The minimum design requirements for the corrective action management unit. Except as provided in subrule (15) of this rule, corrective action management units that consist of new, replacement, or laterally expanded units shall include a composite liner and a leachate collection system that is designed and constructed to maintain less than a 30-centimeter depth of leachate over the liner. The composite liner system shall consist of two components; the upper component shall consist of a minimum 30-mil flexible membrane liner, and the lower component shall consist of at least a 2-foot layer of compacted soil with a hydraulic conductivity of not more than  $1 \times 10^{-7}$  cm/second. Flexible membrane liner components consisting of high density polyethylene shall be at least 60 mil thick and shall be installed in direct and uniform contact with the compacted soil component. The director may approve alternate design requirements if the director determines either of the following:



(i) Alternate design and operating practices, together with location characteristics, shall prevent the migration of any hazardous constituents into the groundwater or surface water at least as effectively as the liner and leachate collection systems requirements specified in this subdivision.

(ii) The corrective action management unit is to be established in an area with existing significant levels of contamination, and an alternative design, including a design that does not include a liner, shall prevent migration from the unit that would exceed long-term remediation goals.

(d) The minimum treatment requirements. Unless the wastes will be placed in a corrective action management unit for storage or treatment only pursuant to subrule (15) of this rule, corrective action management unit-eligible wastes that, absent this rule, would be subject to the land disposal treatment standards of 40 C.F.R. part 268, and that the director determines contain principal hazardous constituents, shall be treated to the standards specified in this subdivision. Principal hazardous constituents are those constituents that the director determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site. Principal hazardous constituents include carcinogens that pose a potential direct risk from ingestion or inhalation at the site at or above  $10^{-3}$ , non-carcinogens that pose a potential direct risk from ingestion or inhalation an order of magnitude or greater over their reference dose, other constituents if the risks to human health and the environment posed by the potential migration of the constituents in the wastes to groundwater are substantially higher than the cleanup levels or goals at the site after considering constituent concentrations, and fate and transport characteristics under site conditions, and other constituents that pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site. The treatment standards for wastes placed in corrective action management units are as follows, unless the director adjusts the treatment level or method pursuant to subrule (13) of this rule:

(i) For non-metals, the treatment shall achieve 90% reduction in total principal hazardous constituent concentrations.

For metals, the treatment shall achieve 90% reduction in principal hazardous constituent concentrations as measured in leachate from the treated waste or media, and tested according to the toxicity characteristic leaching procedure, or 90% reduction in total constituent concentrations when a metal removal treatment technology is used. For metal bearing wastes for which metals removal treatment is not used, the director may specify a leaching test other than the toxicity characteristic leaching procedure to measure treatment effectiveness if the director determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

(iii) When treatment of any principal hazardous constituent to a 90% reduction standard would result in a concentration less than 10 times the universal treatment standard for that constituent as outlined in 40 C.F.R. §268.48, treatment to achieve constituent concentrations less than 10 times the universal treatment standard is not required.

(iv) For waste exhibiting the hazardous characteristic of ignitability, corrosivity, or reactivity, the waste shall also be treated to eliminate these characteristics.

(v) For debris, the debris shall be treated pursuant to 40 C.F.R. §268.45, or by methods or to levels established under subparagraphs (i), (ii), (iii), and (iv) of this subdivision or subrule (13) of this rule, whichever the director determines is appropriate.

(e) The requirements for groundwater monitoring and corrective action as necessary to provide for all of the following:

(i) The continued detection and characterization of the nature, extent, concentration, direction, and movement of existing releases of hazardous constituents in the groundwater from sources located within the corrective action management unit.

- (ii) The detection and subsequent characterization of releases of hazardous constituents to the groundwater that may occur from areas of the corrective action management unit in which wastes will remain in place after closure of the unit.
- (iii) The notification of the director and corrective action as necessary to protect human health and the environment for releases to groundwater from the corrective action management unit.
- (f) Closure requirements as necessary to minimize the need for further maintenance and control, minimize, or eliminate, to the extent necessary to protect human health and the environment, for areas where wastes remain in place, postclosure escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or hazardous waste decomposition products to the ground, surface waters, or atmosphere. The requirements for closure shall include all of the following information as appropriate and deemed necessary by the director for a given corrective action management unit, after considering the characteristics of the unit, volume of wastes which will remain in place after closure, potential for releases from the corrective action management unit, physical and chemical characteristics of the wastes, hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases, and potential for exposure of humans and environmental receptors if releases were to occur from the unit:
  - (i) The requirements for excavation, removal, treatment, and containment of the wastes.
  - (ii) The requirements for removal and decontamination of equipment, devices, and structures used in corrective action management unit-eligible waste management activities within the corrective action management unit.
  - (iii) For areas in which wastes will remain in place after closure of the corrective action management unit, the requirements for capping these areas. If the waste remaining in the corrective action management unit after closure has constituent concentrations at or above remedial levels or goals applicable to the site, the unit shall be provided with a final cover that is designed and constructed to meet the following performance criteria, unless the director determines that modifications to the requirements of this subparagraph are necessary to facilitate treatment or the performance of the unit:
    - (A) Provide long-term minimization of migration of liquids through the closed unit.
    - (B) Function with minimum maintenance.
    - (C) Promote drainage and minimize erosion or abrasion of the cover.
    - (D) Accommodate settling and subsidence so that the cover's integrity is maintained.
    - (E) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.
  - (g) The postclosure requirements as necessary to protect human health and the environment, including, for areas in which wastes will remain in place, monitoring and maintenance activities and the frequency at which the activities shall be performed to ensure the integrity of any cap, final cover, or other containment system.
- (13) The director may adjust the treatment level or method in subrule (12)(d) of this rule to a higher or lower level, based on 1 or more of the following factors, provided the adjusted level or method is protective of human health and the environment:
  - (a) The technical impracticability of treatment to the levels or by the methods in subrule (12)(d) of this rule.
  - (b) The levels or methods in subrule (12)(d) of this rule would result in concentrations of principal hazardous constituents that are significantly above or below cleanup standards applicable to the site, established either site-specifically or promulgated under state or federal law.
  - (c) The views of the affected local community on the treatment levels or methods in subrule (12)(d) of this rule as applied at the site, and, for treatment levels, the treatment methods necessary to achieve these levels.

- (d) The short-term risks presented by the on-site treatment method necessary to achieve the levels or treatment methods in subrule (12)(d) of this rule.
- (e) The long-term protection offered by the engineering design of the corrective action management unit and related engineering controls where 1 of the following conditions are met:
  - (i) The treatment standards of subrule (12)(d) of this rule are substantially met and the principal hazardous constituents in the waste or residuals are of very low mobility.
  - (ii) Cost-effective treatment has been used and the corrective action management unit meets the liner and leachate collection requirements for new land disposal units in part 6 of these rules.
  - (iii) After review of appropriate treatment technologies, the director determines that cost-effective treatment is not reasonably available, and the corrective action management unit meets the liner and leachate collection requirements for new land disposal units in part 6 of these rules.
  - (iv) The cost-effective treatment has been used and the principal hazardous constituents in the treated wastes are of very low mobility.
  - (v) After review of the appropriate treatment technologies, the director determines that cost-effective treatment is not reasonably available, the principal hazardous constituents in the wastes are of very low mobility, and either the corrective action management unit meets or exceeds the liner standards for new, replacement, or laterally expanded corrective action management units in subrule (12)(c) of this rule, or the corrective action management unit provides substantially equivalent or greater protection.
- (14) The treatment required by the treatment standards of this rule shall be completed before, or within a reasonable time after, placement in the corrective action management unit. For the purposes of determining whether wastes placed in corrective action management units have been treated to site-specific treatment standards and treatment completed, the director may, as appropriate, specify a subset of the principal hazardous constituents in the waste as analytical surrogates for determining whether treatment standards have been met for other principal hazardous constituents. This specification shall be based on the degree of difficulty of treatment and analysis of constituents with similar treatment properties.
- (15) Corrective action management units that are used for storage or treatment only are units in which waste will not remain after closure. These corrective action management units shall be designated pursuant to all of the requirements of this rule, except as follows:
  - (a) Corrective action management units that are used for storage or treatment only and that operate pursuant to the time limits established in 40 C.F.R. §§264.554(d)(1)(iii), (h), and (i), are subject to the requirements for staging piles in 40 C.F.R. §§264.554(d)(1)(i) and (ii), (d)(2), (e), (f), (j), and (k), which are adopted by reference in R 299.9638, instead of the performance standards and requirements for corrective action management units in subrules (10) and (12)(c) to (f) of this rule.
  - (b) Corrective action management units that are used for storage or treatment only and that do not operate pursuant to the time limits established in 40 C.F.R. §§264.554(d)(1)(iii), (h), and (i) shall operate pursuant to a time limit established by the director, that is no longer than necessary to achieve a timely remedy selected for the waste and are subject to the requirements for staging piles in 40 C.F.R. §§264.554(d)(1)(i) and (ii), (d)(2), (e), (f), (j), and (k) instead of the performance standards and requirements for corrective action management units in subrules (10) and (12)(d) to (f) of this rule.
- (16) Corrective action management units into which wastes are placed where all wastes have constituent levels at or below remedial levels or goals applicable to the site may comply with the requirements for liners in subrule (12)(c) of this rule, caps in subrule (12)(f)(iii) of this rule, groundwater monitoring requirements in subrule (12)(e) of this rule, or for treatment or storage corrective action management units, the design standards of subrule (15) of this rule.
- (17) The director shall provide public notice and a reasonable opportunity for public comment before designating a corrective action management unit. The notice shall include the rationale for any

proposed adjustments under subrule (13) of this rule to the treatment standards in subrule (12)(d) of this rule.

(18) Notwithstanding any other provision of this rule, the director may impose additional requirements as necessary to protect human health and the environment.

(19) The incorporation of a corrective action management unit into an existing license shall be approved by the director pursuant to R 299.9519 and R 299.9520.

(20) The designation of a corrective action management unit does not change the department's existing authority to address environmental protection standards, media-specific points of compliance to be applied to remediation at a facility, or other remedy selection decisions.

**R 299.9639 Disposal of corrective action management unit-eligible waste in hazardous waste landfills.**

Rule 639. (1) The director with regulatory oversight at the location where the cleanup is taking place may approve the placement of corrective action management unit-eligible waste in hazardous waste landfills not located at the site from which the waste originated, without the waste meeting the requirements of 40 C.F.R. part 268, if all of the following conditions are met:

(a) The waste meets the definition of corrective action management unit-eligible waste in R 299.9102.

(b) The director with regulatory oversight at the location where the cleanup is taking place identifies principal hazardous constituents in such wastes, pursuant to R 299.9635(12)(d), and requires that such principal hazardous constituents are treated to any of the following standards specified for corrective action management unit-eligible waste:

(i) The treatment standards in R 299.9635(12)(d).

(ii) The treatment standards adjusted pursuant to R 299.9635(13)(a), (c), (d), or (e)(i).

(iii) The treatment standards adjusted pursuant to R 299.9635(13)(e)(ii), where treatment has been used and that treatment significantly reduces the toxicity or mobility of the principal hazardous constituents in the waste, minimizing the short-term and long-term threat posed by the waste, including the threat at the remediation site.

(c) The hazardous waste landfill receiving the corrective action management unit-eligible waste shall meet all of the following requirements:

(i) Have an operating license issued under part 111 of the act and these rules or, if out-of-state, have a comparable enforceable mechanism issued under the regulations governing the receiving landfill.

(ii) Meet the requirements for new landfills in part 6 of these rules or, if out-of-state, meet comparable requirements in the regulations governing the receiving landfill.

(iii) Be authorized to accept corrective action management unit-eligible waste.

(2) The person seeking approval for disposal of corrective action management unit-eligible waste shall provide sufficient information to enable the director with regulatory oversight at the location where the cleanup is taking place to approve placement of the waste pursuant to subrule (1) of this rule. The information required pursuant to R 299.9635(11) for corrective action management unit applications shall be provided, unless it is not reasonably available.

(3) The director with regulatory oversight at the location where the cleanup is taking place shall provide public notice and a reasonable opportunity for public comment before approving corrective action management unit-eligible waste for placement in an off-site licensed hazardous waste landfill, or, if out-of-state, in a hazardous waste landfill with a comparable enforceable mechanism issued under the governing regulations, consistent with the requirements for corrective action management unit approval in R 299.9635(17). The approval shall be specific to a single remediation.

(4) Applicable hazardous waste management requirements in part 6 of these rules, including recordkeeping requirements to demonstrate compliance with treatment standards approved under R 299.9635 and this rule, or, if out-of-state, comparable requirements, for corrective action management

unit-eligible waste shall be incorporated into the receiving facility license or, if out-of-state, the comparable enforceable mechanism through issuance or modification, providing notice and an opportunity for comment and a hearing. A landfill may not receive hazardous corrective action management unit-eligible waste under this rule unless its operating license or comparable enforceable mechanism specifically authorizes receipt of such waste.

(5) With respect to each remediation activity, corrective action management unit-eligible waste shall not be placed in an off-site landfill authorized to receive the waste pursuant to subrule (4) of this rule until all of the following conditions have been met:

(a) The owner or operator of the landfill notifies the director responsible for oversight of the landfill and persons on the facility mailing list of his or her intent to receive corrective action management unit-eligible waste pursuant to this rule. The notice shall identify the source of the remediation waste, the principal hazardous constituents in the waste, and the treatment requirements.

(b) Persons on the facility mailing list may provide comments, including objections to the receipt of the corrective action management unit-eligible waste, to the director within 15 days of notification.

(c) The director may object to the placement of the corrective action management unit-eligible waste in the landfill within 30 days of notification. The director may extend the review period an additional 30 days because of public concerns or insufficient information.

(d) Corrective action management unit-eligible wastes may not be placed in the landfill until the director has notified the facility owner or operator that he or she does not object to its placement.

(e) If the director objects to the placement or does not notify the facility owner or operator that he or she has chosen not to object, the facility may not receive the waste until the objection has been resolved, or the owner or operator obtains an operating license or, if out-of-state, a comparable enforceable mechanism, modification in accordance with

R 299.9519 or, if out-of-state, the governing requirements, specifically authorizing receipt of the waste.

(f) As part of the operating license or, if out-of-state, a comparable enforceable mechanism, issuance or modification process in subrule (4) of this rule, the director may modify, reduce, or eliminate the notification requirements of this subrule as they apply to specific categories of corrective action management unit-eligible waste, based on minimal risk.

(6) Generators of corrective action management unit-eligible wastes sent off-site to a hazardous waste landfill under this rule shall comply with 40 C.F.R. §268.7(a)(4).

(7) Off-site facilities treating corrective action management unit-eligible wastes to comply with this rule shall comply with the requirements of 40 C.F.R. §268.7(a)(4), or if out-of-state, the requirements governing such wastes, except that the certification shall be with respect to the treatment requirements of subrule (1)(b) of this rule or, if out-of-state, the governing treatment requirements.

(8) For the purposes of this rule only, the “design of the corrective action management unit” in R 299.9635(13)(e) means design of the licensed hazardous waste landfill.

**R 299.9640 Options for incinerators, cement kilns, and lightweight aggregate kilns to minimize emissions from startup, shutdown, and malfunction events.**

Rule 640. (1) Owners and operators of licensed incinerators, cement kilns, or lightweight aggregate kilns may request that the director address operating license conditions that minimize emissions from startup, shutdown, and malfunction events under any of the options in 40 C.F.R. §270.235(a) when requesting removal of license conditions that are no longer applicable according to R 299.9623(2) or R 299.9808(4).

(2) Owners and operators of interim status incinerators, cement kilns, or lightweight aggregate kilns operating under parts 6 and 8 of these rules may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a

comprehensive performance test and submitting to the director a notification of compliance documenting compliance with 40 C.F.R. part 63, subpart EEE:

(a) The owner or operator continues to comply with the emission standards and operating requirements of parts 6 and 8 of these rules relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements only apply during startup, shutdown, and malfunction events.

(b) The owner or operator is exempt from the standards of parts 6 and 8 of these rules relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the director that the startup, shutdown, and malfunction plan required pursuant to 40 C.F.R. §63.1206(c)(2) has been approved by the department pursuant to 40 C.F.R. §63.1206(c)(2)(ii).

(3) When an owner or operator of an interim status incinerator, cement kiln, or lightweight kiln operating under parts 6 and 8 of these rules submits an operating license application to the director, the owner or operator may request that the director control emissions from startup, shutdown, and malfunction events under subrule (1) of this rule.

(4) The provisions of 40 C.F.R. §270.235(a) are adopted by reference in R 299.11003. For the purposes of this adoption, the word "permit" shall be replaced with "operating license," and the references to "264.340(b)" shall be replaced with "R 299.9623(2)," "266.100(b)" replaced with "R 299.9808(4)," and "270.41(a)" and "270.42" replaced with "R 299.9519."

## **PART 7. FINANCIAL CAPABILITY**

### **R 299.9703 Financial assurance for closure and postclosure care.**

Rule 703. (1) The owner or operator of each facility shall establish financial assurance for closure of the facility by utilizing the options specified in R 299.9704 to R 299.9709. The owner or operator of each disposal facility shall establish financial assurance for postclosure care of the facility utilizing the options specified in R 299.9704 to R 299.9709. An owner or operator of a new facility shall submit these documents to the director or his or her designee not less than 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal. An owner or operator shall submit all revisions and renewals of the documents to the director within 60 days of the revision or renewal.

(2) An owner or operator may satisfy the requirements of this rule by establishing more than 1 financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, certificates of deposit and time deposit accounts, and insurance. The mechanisms shall be as specified in this part, except that it is the combination of mechanisms, rather than the single mechanism, which shall provide financial assurance for an amount at least equal to the current closure and postclosure cost estimate. The director may use any or all of the mechanisms to provide for closure and postclosure care of the facility.

(3) An owner or operator may use a financial assurance mechanism specified in this part to meet the requirements of this rule for more than 1 facility. Evidence of financial assurance submitted to the director shall include a list showing, for each facility, the site identification number, name, address, and the amount of funds for closure and postclosure assured by the mechanism. If the facilities covered by the mechanism are in more than 1 EPA region, identical evidence of financial assurance shall be submitted to, and maintained with, the regional administrators of all such EPA regions. The amount of funds available through the mechanism shall be not less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure and postclosure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(4) An owner or operator may satisfy the requirements for financial assurance for both closure and postclosure care for one or more facilities by using a trust fund, surety bond, letter of credit, certificate of deposit and time deposit account, or insurance that meets the requirements of this part for both closure and postclosure care. The amount of funds available through the mechanism shall not be less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(5) Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that closure has been accomplished in accordance with the closure plan, or that the postclosure care period has been completed for a hazardous waste disposal unit in accordance with the approved postclosure plan, the director shall notify the owner or operator, in writing, that he or she is no longer required by this section to maintain financial assurance for closure of the particular facility or postclosure care of the particular unit, unless the director has reason to believe that closure or postclosure care has not been in accordance with the approved plan. The director shall provide the owner or operator with a detailed written statement of any such reason to believe that closure or postclosure care has not been in accordance with the approved plan.

(6) An owner or operator shall notify the director, by certified mail, of the commencement of a voluntary or involuntary proceeding under the bankruptcy provisions of Public Law 95-598, 11 U.S.C. §§1 to 151302, naming the owner or operator as debtor, within 10 days after commencement of the proceeding.

(7) An owner or operator who fulfills the requirements of this rule by obtaining a trust fund, surety bond, letter of credit, certificate of deposit or time deposit account, or insurance policy shall be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, a suspension or revocation of the authority of the trustee institution to act as trustee, or a suspension or revocation of the authority of the institution issuing the surety bond, letter of credit, certificate of deposit or time deposit account, or insurance policy to issue such instruments. The owner or operator shall establish other financial assurance or liability coverage within 60 days after such an event.

(8) The director may replace all or part of the requirements of this rule with alternative requirements for financial assurance if the director does all of the following:

(a) Prescribes alternative requirements for the hazardous waste management unit under 40 C.F.R. §§264.90(f) or 264.110(c), or both, or 265.90(f) or 265.110(d), or both.

(b) Determines that it is not necessary to apply the requirements of this rule because the alternative financial assurance requirements will protect human health and the environment.

(c) Specifies the alternative financial assurance requirements in an operating license or enforceable document.

(9) The provisions of 40 C.F.R. §§264.90(f), 264.110(c), 265.90(f), and 265.110(d) are adopted by reference in R 299.11003.

**R 299.9706 Letter of credit.**

Rule 706. (1) An owner or operator may satisfy the requirements of this part by obtaining an irrevocable letter of credit which conforms to the requirements of this rule and which is executed on a form approved by the director. The issuing institution shall be a bank or financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The letter of credit shall include all of the following information:

(a) The site identification number.

(b) Name and address of the facility.

(c) The amount of funds assured for closure or postclosure care of the facility by the letter of credit.

- (3) The letter of credit shall be irrevocable and issued for a period of at least 1 year. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least 1 year unless, not less than 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the owner or operator and the director have received the notice, as evidenced by the return receipts.
- (4) The letter of credit shall be issued in an amount at least equal to the current closure or postclosure cost estimate, or both, except as provided in R 299.9703(2).
- (5) When the current closure or postclosure cost estimate, or both, increases to an amount more than the amount of the credit, the owner or operator, within 60 days after the increase, shall either cause the amount of the credit to be increased so that it at least equals the current closure or postclosure cost estimate and submit evidence of such increase to the director or obtain other financial assurance as specified in this part to cover the increase. When the current closure or postclosure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure or postclosure cost estimate following written approval by the director.
- (6) The director may draw on the letter of credit to correct violations, complete closure, and maintain the facility pursuant to approved plans after doing both of the following:
- (a) Issuing a notice of violation or other order to the owner or operation which alleges that the owner or operator has failed to perform final closure or postclosure care, or both, pursuant to the closure and postclosure plans and other permit requirements when required.
  - (b) Providing the owner or operator with 7 days notice and opportunity for hearing.
- (7) If the owner or operator does not establish alternate financial assurance as specified in this part and obtain written approval of such alternate assurance from the director within 90 days after receipt by both the owner or operator and the director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, then the director shall draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension, the director shall draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this part and obtain written approval of such assurance from the director.
- (8) The director shall return the letter of credit to the issuing institution for termination when either of the following occurs:
- (a) An owner or operator substitutes alternate financial assurance as specified in this part.
  - (b) The director releases the owner or operator from the requirements of this part pursuant to R 299.9703(5).

## **PART 8. MANAGEMENT OF SPECIFIC HAZARDOUS WASTES, SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES, AND USED OIL**

### **R 299.9801 Recyclable materials used in manner constituting disposal.**

Rule 801. (1) The requirements of this rule apply to recyclable materials that are applied to or placed on the land in either of the following ways:

- (a) Without mixing with any other substance.
  - (b) After mixing or combining with any other substance or substances.
- (2) The materials specified in subrule (1) of this rule will be referred to throughout this rule as materials "used in a manner that constitutes disposal."
- (3) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation pursuant to these rules if the



recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products are in compliance with the applicable treatment standards specified in R 299.9311, R 299.9413, and R 299.9627, or where no treatment standards have been established, the applicable prohibition levels specified in 40 C.F.R. §268.32 or section 3004(d) of RCRA, for each recyclable material that the products contain.

(4) An anti-skid/deicing use of slags that are generated from the high temperature metals recovery (HTMR) processing of K061, K062, and F006 in a manner that constitutes disposal is not covered by the exemption in subrule (3) of this rule and the use remains subject to regulation under part 111 of the act and these rules.

(5) Fertilizers that contain recyclable materials are not subject to regulation provided that they meet both of the following conditions:

(a) They are zinc fertilizers excluded from the definition of waste according to R 299.9204(1)(y).

(b) They meet the applicable treatment standards in 40 C.F.R. part 268, subpart D for each hazardous waste they contain.

(6) Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of parts 3 and 4 of these rules.

(7) Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated pursuant to all of the applicable provisions of parts 5, 6, and 7 of these rules.

(8) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated pursuant to all of the applicable provisions of parts 5, 6, and 7 of these rules, except that these requirements do not apply to products that contain these recyclable materials pursuant to subrule (3) of this rule.

(9) Waste, used oil, or other material that is contaminated with a hazardous waste shall not be used for dust suppression or road treatment.

**R 299.9808 Management of hazardous waste burned in boilers and industrial furnaces.**

Rule 808. (1) The requirements of this rule apply to hazardous waste that is burned or processed in a boiler or industrial furnace irrespective of the purpose of the burning or processing, except as noted in subrules (2) to (4) of this rule. For the purposes of this rule, the term "burn" means burning hazardous waste for energy recovery or destruction or processing hazardous waste for materials recovery or as an ingredient.

(2) The following hazardous wastes and facilities are not subject to this rule:

(a) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in R 299.9212. The used oil is subject to regulation pursuant to R 299.9809 to R 299.9816.

(b) Gas recovered from hazardous waste or solid waste landfills when the gas is burned for energy recovery.

(c) Hazardous wastes that are exempt from regulation pursuant to R 299.9204 and R 299.9206(3)(c) to (f), and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators pursuant to R 299.9205.

(d) Coke ovens, if the only hazardous waste burned in an oven is K087.

(3) The following owners or operators are not subject to regulation under this rule, except as noted:

(a) An owner or operator of a smelting, melting, and refining furnace, including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, that processes hazardous waste solely for metal recovery is exempt from regulation under this rule, except for the requirements of subrules (6) and (8) of this rule, if the owner or operator is in compliance with the requirements of

40 C.F.R. §266.100(d)(1) to (3). The exemption does not apply to cement kilns, aggregate kilns, or halogen acid furnaces that process hazardous waste solely for metals recovery.

(b) An owner or operator of a smelting, melting, and refining furnace, including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, that processes hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, or ruthenium, or any combination of the metals, is exempt from regulation under this rule, except for the requirements of subrule (8) of this rule, if the owner or operator is in compliance with the requirements of 40 C.F.R. §266.100(g)(1) to (3).

(c) An owner or operator of a facility that burns, in an on-site boiler or industrial furnace that is exempt from regulation pursuant to the small quantity provisions of 40 C.F.R. §266.108, hazardous waste that the facility has generated is exempt from regulation under parts 5 to 7 of these rules for storage units that store mixtures of hazardous waste and the primary fuel to the boiler or industrial furnace in tanks that feed the fuel mixture directly to the burner. The storage of hazardous waste before mixing it with the primary fuel is subject to subrule (6) of this rule.

(d) An owner or operator of a facility that burns hazardous waste in an on-site boiler or industrial furnace, if all of the small quantity exemption criteria outlined in 40 C.F.R. §266.108 are met.

(4) Except as noted in this subrule, part 8 of these rules does not apply if the affected source demonstrates compliance with the maximum achievable control technology standards of 40 C.F.R. part 63, subpart EEE by conducting a comprehensive performance test and submitting to the director a notification of compliance under 40 C.F.R. §§63.1207(j) and 63.1210(b) which documents compliance with the requirements of 40 C.F.R. part 63, subpart EEE. Nevertheless, after this compliance demonstration is made, the operating license conditions that are based on the standards of part 8 of these rules shall continue to be in effect until they are removed from the operating license or the operating license is terminated or revoked, unless the operating license expressly provides otherwise. The maximum achievable control technology standards of 40 C.F.R. part 63, subpart EEE, do not supersede the requirements of R 299.9601, R 299.9605 to R 299.9610, R 299.9612, R 299.9613, R 299.9630, R 299.9631, R 299.9808(7) and part 7 of these rules and 40 C.F.R. part 265, subparts A to D, F, G, BB, and CC, and §§266.102(e)(11), 266.103(l), 266.111, 266.112, except 266.112(a) and (c), as applicable. If a person elects to comply with 40 C.F.R. §270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, the requirements of 40 C.F.R. §266.102(e)(1) requiring operations pursuant to the operating requirements specified in the operating license at all times that hazardous waste is in the unit, and 40 C.F.R. §266.102(e)(2)(iii) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes, continue to apply. The provisions of 40 C.F.R. §266.102(e)(1) and (2)(iii) apply only during startup, shutdown, and malfunction events.

(5) A generator and a transporter of hazardous waste that is burned in a boiler or industrial furnace shall comply with parts 3 and 4 of these rules, respectively.

(6) An owner or operator of a facility that stores hazardous waste that is burned in a boiler or industrial furnace shall comply with the applicable requirements of parts 5 to 7 of these rules. The requirements of parts 5 to 7 of these rules shall apply to the storage by the burner and to storage facilities operated by intermediaries, including processors, blenders, distributors, between the generator and the burner.

(7) An owner or operator of a boiler or an industrial furnace that burns hazardous waste shall comply with the applicable requirements of parts 5 to 7 of these rules and 40 C.F.R. part 266, subpart H and appendices I to XIII; except §§266.100(a) and (b), 266.101, 266.102(a), and 266.112(a) and (c); and §270.66.

(8) A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of hazardous waste under R 299.9204(2)(d), (h), and (j), unless the device and the owner or operator are in compliance with all of the following requirements:

(a) The device meets the following criteria:

(i) If the device is a boiler, it shall burn not less than 50% coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal.

(ii) If the device is an industrial furnace subject to R 299.9204(2)(h), it shall process not less than 50%, by weight, normal, nonhazardous raw materials.

(iii) If the device is a cement kiln, it shall process not less than 50%, by weight, normal cement production raw materials.

(b) The owner or operator demonstrates, in writing, to the director's satisfaction, that the hazardous waste does not significantly affect the residue by demonstrating conformance with the criteria outlined in 40 C.F.R. §266.112(b)(1) and (2).

(c) Records sufficient to document compliance with this subrule shall be retained until closure of the boiler or industrial furnace unit. At a minimum, the following information shall be included in the records, as applicable:

(i) The levels of constituents in 40 C.F.R. part 261, appendix VIII, that are present in waste-derived residues.

(ii) If the waste-derived residue is compared with normal residue under this subrule, then all of the following information shall be documented in the records:

(A) The levels of constituents in 40 C.F.R. part 261, appendix VIII, that are present in normal residues.

(B) Data and information, including analyses of samples as necessary, that were obtained to determine if changes in raw materials or fuels would reduce the concentration of toxic constituents of concern in the normal residue.

(9) The provisions of 40 C.F.R. parts 265, subparts A to D, F, G, BB, and CC, 266, subpart H and appendices I to XIII; except §§266.100(a) and (b), 266.101, 266.102(a), and 266.112(a) and (c); §270.66, and §270.235(a)(1)(i) are adopted by reference in R 299.11003. For the purposes of 40 C.F.R. part 266, subpart H and §270.66, the word "director" shall replace the words "regional administrator."

**R 299.9809 Used oil regulation; applicability.**

Rule 809. (1) Used oil and the following materials are subject to regulation as used oil pursuant to the provisions of R 299.9810 to R 299.9816, unless otherwise specified in subrule (2) of this rule:

(a) A mixture of used oil and hazardous waste, except a mixture of used oil and halogenated hazardous waste listed under R 299.9213 or R 299.9214, generated by a conditionally exempt small quantity generator who is regulated pursuant to the provisions of R 299.9205.

(b) A material that contains, or is otherwise contaminated with, used oil and is burned for energy recovery.

(c) Used oil that is drained or removed from materials that contain, or are otherwise contaminated with, used oil.

(d) A mixture of used oil and fuel.

(e) A material which is produced from used oil and which is burned for energy recovery.

(f) Used oil that is burned for energy recovery and any fuel produced from used oil by processing, blending, or other treatment if it exceeds any of the used oil specifications. Specification used oil is used oil that does not exceed any of the used oil specifications. Off-specification used oil is used oil that exceeds any of the specifications specified in this subdivision. The used oil specifications are as follows:

(i) A maximum arsenic concentration of 5 parts per million.

(ii) A maximum cadmium concentration of 2 parts per million.

(iii) A maximum chromium concentration of 10 parts per million.

- (iv) A maximum lead concentration of 100 parts per million.
- (v) A minimum flash point of 100 degrees Fahrenheit.
- (vi) A maximum total halogen concentration of 4,000 parts per million.
- (g) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic.
- (h) Used oil that contains polychlorinated biphenyls at any concentration less than 50 parts per million unless, because of dilution, it is regulated under 40 C.F.R. part 761 as a used oil that contains polychlorinated biphenyls at concentrations of 50 parts per million or greater. Such used oil may also be subject to 40 C.F.R. part 761, including 40 C.F.R. §§761.20(d) and (e). Marketers and burners of used oil who market used oil that contains any quantifiable level, 2 parts per million or greater, of polychlorinated biphenyls are also subject to the requirements of 40 C.F.R. §761.20(e).
- (2) The following materials are not subject to regulation as used oil under the provisions of R 299.9810 to R 299.9816, but may be subject to regulation as a hazardous waste under part 111 of the act and these rules:
  - (a) A mixture of used oil and hazardous waste, except as specified in subrule (1)(a) of this rule.
  - (b) Used oil that contains more than 1,000 parts per million total halogens is presumed to be a hazardous waste and is regulated under part 111 of the act and these rules. A person may rebut the presumption by demonstrating that the used oil does not contain hazardous waste. The demonstration may be made by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents that are listed in 40 C.F.R. part 261, appendix VIII. The rebuttable presumption rule does not apply to the following materials:
    - (i) Metalworking oils or fluids that contain chlorinated paraffins if the oils or fluids are processed through a tolling arrangement as specified in 40 C.F.R. §279.24(c) to reclaim the oils or fluids. The rebuttable presumption does apply, however, if the oils or fluids are recycled in any other manner or disposed of.
    - (ii) Used oil that is contaminated with chlorofluorocarbons which have been removed from refrigeration units if the chlorofluorocarbons are destined for reclamation. The rebuttable presumption does apply, however, if the used oil is contaminated with chlorofluorocarbons that have been mixed with used oil from sources other than refrigeration units.
  - (c) A material that contains, or is otherwise contaminated with, used oil if the used oil has been properly drained or removed to the extent possible so that visible signs of free-flowing oil do not remain in or on the material and the material is not burned for energy recovery.
  - (d) A mixture of used oil and diesel fuel that is mixed on-site by the generator of the used oil for use in the generator's own vehicles. Before mixing, the used oil is regulated pursuant to the provisions of subrule (1) of this rule.
  - (e) Used oil and materials that are derived from used oil and that are disposed of or used in a manner constituting disposal.
  - (f) Used oil rerefining distillation bottoms that are used as a feedstock to manufacture asphalt products.
  - (g) Wastewater, the discharge of which is subject to regulation pursuant to the provisions of either section 402 or section 307(b) of the federal clean water act, including wastewater at facilities that have eliminated the discharge of wastewater, that is contaminated with de minimis quantities of used oil. For the purposes of this subdivision, "de minimis" quantities of used oil means small spills, leaks, or other drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. De minimis quantities of used oil do not include used oil discarded as a result of abnormal manufacturing operations that result in substantial leaks, spills, or other releases or to used oil recovered from wastewaters.

- (h) Used oil mixed with crude oil or natural gas liquids for insertion into a crude oil pipeline. Before mixing with crude oil or natural gas liquids, the used oil is regulated pursuant to the provisions of subrule (1) of this rule.
  - (i) A mixture of used oil and crude oil or natural gas liquids that contains less than 1% used oil if the mixture is being stored, or transported to a crude oil pipeline or petroleum refining facility, for insertion into the refining process at a point before crude distillation or catalytic cracking.
  - (j) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing if the used oil constitutes less than 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Before insertion into the petroleum refining facility, the used oil is regulated pursuant to the provisions of subrule (1) of this rule.
  - (k) Used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking if the used oil meets the used oil specifications pursuant to the provisions of subrule (1)(f) of this rule. Before insertion into the petroleum refining facility process, the used oil is regulated pursuant to the provisions of subrule (1) of this rule.
  - (l) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining process. Used oil that is intentionally introduced into a hydrocarbon recovery system or wastewater treatment system is regulated as a used oil pursuant to the provisions of subrule (1) of this rule.
  - (m) Tank bottoms from stock tanks that contain exempt mixtures of used oil and crude oil or natural gas liquids.
  - (n) Used oil that is produced on vessels from normal shipboard operations. Once the used oil is transported ashore, which is when the used oil is considered to be generated by the owner or operator of the vessel and the person removing or accepting the used oil from the vessel, then the used oil is regulated pursuant to the provisions of subrule (1) of this rule.
  - (o) Specification used oil fuel when the person who determined that the used oil fuel is specification used oil fuel demonstrates compliance with the requirements of R 299.9815(3)(b), (c), and (f) and 40 C.F.R. §279.73.
  - (p) Used oil that contains polychlorinated biphenyls at concentrations of 50 parts per million or greater. This used oil is subject to regulation pursuant to the provisions of 40 C.F.R. part 761. No person may avoid these provisions by diluting used oil that contains polychlorinated biphenyls, unless otherwise specifically provided for under part 8 of these rules or under 40 C.F.R. part 761.
- (3) The provisions of 40 C.F.R. part 761 are adopted by reference in R 299.11003.

**R 299.9815 Used oil fuel marketers; requirements.**

Rule 815. (1) The requirements of this rule apply to a person who conducts either of the following activities:

- (a) Directs a shipment of off-specification used oil from his or her facility to a used oil burner.
  - (b) First claims that the used oil which is to be burned for energy recovery meets the used oil specifications of R 299.9809(1)(f).
- (2) The requirements of this rule do not apply to the following:
- (a) A used oil generator, and a transporter who transports used oil that is received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from his or her facility to a used oil burner. Used oil processors or rerefiners who burn some used oil fuel for the purposes of processing are considered to be burning incidentally to processing. A used oil generator or transporter who directs shipments of off-specification used oil to used oil processors or rerefiners who incidentally burn used oil is not a used oil fuel marketer subject the requirements of this rule.

- (b) A person who directs shipments of specification used oil fuel and who is not the first person to claim that the used oil meets the used oil specification of R 299.9809(1)(f).
- (3) A used oil fuel marketer shall comply with all of the following requirements:
  - (a) Initiate shipments of off-specification used oil only to a used oil burner who is in compliance with both of the following requirements:
    - (i) Has a site identification number.
    - (ii) Burns the used oil in an industrial furnace or boiler as identified in R 299.9814(3)(a).
  - (b) Determine that the used oil which is to be burned for energy recovery meets the used oil specifications of R 299.9809(1)(f) by performing analyses of the used oil or by obtaining copies of analyses or other information documenting that the used oil meets the specifications.
  - (c) Maintain copies of the analyses of the used oil or other information used to make the determination that the used oil meets the used oil specifications of R 299.9809(1)(f) for a period of 3 years after the determination is made.
  - (d) The provisions of 40 C.F.R. §§279.73 and 279.75.
  - (e) Maintain a record of each shipment of off-specification used oil to a used oil burner for a period of not less than 3 years from the date of shipment. The records shall take the form of a log, invoice, manifest, bill of lading, or other shipping documents. The records for each shipment shall include all of the following information:
    - (i) The name, address, and site identification number of the transporter who delivers the used oil to the burner.
    - (ii) The name, address, and site identification number of the burner who will receive the used oil.
    - (iii) The quantity of used oil shipped.
    - (iv) The date of the used oil shipment.
  - (f) Maintain a record of each shipment of specification used oil to the facilities to which the marketer delivers the used oil for a period of not less than 3 years from the date of shipment. The records shall take the form of log, invoice, manifest, bill of lading, or other shipping documents. The records for each shipment shall include all of the following information:
    - (i) The name and address of the facility that receives the shipment.
    - (ii) The quantity of used oil fuel delivered.
    - (iii) The date of the shipment or delivery.
    - (iv) A cross-reference to the record of used oil analysis or other information used to make the determination that the used oil meets the used oil specifications of R 299.9809(1)(f).
- (4) The provisions of 40 C.F.R. §§279.73 and 279.75 are adopted by reference in R 299.11003. For the purposes of the adoption, the word "director" shall replace the words "regional administrator."

**R 299.9819 Military munitions; emergency response standards.**

Rule 819. Explosives and munitions emergencies involving military munitions or explosives shall comply with R 299.9301(8), R 299.9401(6), R 299.9501(3), and R 299.9503(2).

**R 299.9822 Low-level mixed waste storage and treatment; conditional exemption, eligibility, and standards.**

Rule 822. (1) Persons storing and treating LLMW shall comply with these rules unless otherwise specified in this rule.

(2) LLMW is exempt from the definition of hazardous waste under the storage and treatment conditional exemption if both of the following requirements are met:

- (a) The LLMW meets the eligibility requirements of subrule (3) of this rule.
- (b) Persons storing and treating the LLMW comply with subrule (4) of this rule.

(3) LLMW is eligible for the LLMW storage and treatment conditional exemption if it is generated and managed under a single NRC or NRC agreement state license. A facility that receives LLMW generated at a facility with a different NRC or NRC agreement state license number is subject to the construction permit and operating license requirements under parts 5 and 6 of these rules and is ineligible for the conditional exemption in subrule (2) of this rule. NARM waste is also ineligible for the conditional exemption in subrule (2) of this rule.

(4) In order to qualify for and maintain the LLMW storage and treatment conditional exemption, persons storing and treating LLMW shall comply with all of the following requirements:

(a) Provide to the department by certified delivery written notification that the conditional exemption is being claimed. The notification shall be provided to the department within 90 days of the effective date of this rule or within 90 days of when a storage or treatment unit is first used to store or treat conditionally exempt LLMW. The dated notification shall include all of the following information:

(i) The applicant's name.

(ii) The applicant's address.

(iii) The applicant's site identification number.

(iv) The applicant's NRC or NRC agreement state license number.

(v) The hazardous waste number(s) of the waste for which the exemption is being sought.

(vi) The storage unit(s) and treatment unit(s) for which the exemption is being sought.

(vii) A statement that the applicant meets the conditions of this rule.

(viii) The signature of an authorized representative certifying that the information in the notification is true, accurate, and complete.

(b) Store the LLMW in tanks or containers in compliance with the requirements of the NRC or NRC agreement state license that apply to the proper storage of LLRW, not including those requirements that relate solely to recordkeeping.

(c) Store the LLMW in tanks or containers in compliance with the chemical compatibility requirements for tanks or containers in part 6 of these rules.

(d) Certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the personnel training standards of 40 C.F.R. §265.16(a)(3).

(e) Conduct an inventory of the stored conditionally exempt LLMW at least annually and inspect the waste at least quarterly for compliance with this rule and R 299.9823, as applicable.

(f) Maintain an accurate emergency plan and provide the plan to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. The plan shall include all of the following information:

(i) A description of the emergency response arrangements with local authorities.

(ii) A description of the evacuation plans.

(iii) A list of the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators.

(iv) A list of the emergency equipment.

(g) Only treat the LLMW at the facility within a tank or container pursuant to the terms of the NRC or NRC agreement state license. Treatment that cannot be conducted in a tank or container without an operating license under these rules, such as incineration, is not allowed under the conditional exemption of subrule (2) of this rule.

(5) Failure to comply with the requirements of subrule (4) of this rule shall result in the automatic loss of the conditional exemption of subrule (2) of this rule. If the exemption is lost, the person handling the LLMW shall comply with all of the following requirements:

- (a) Immediately manage the waste associated with the failure as a hazardous waste. The associated storage or treatment unit(s) shall become subject to the hazardous waste tank and container storage and treatment requirements of these rules, as applicable.
- (b) Provide a written report by certified delivery to the department and the NRC, or the oversight agency in the NRC agreement state. The report shall be submitted within 30 days of learning of the failure to comply. The report shall be signed by an authorized representative certifying that the information provided in the report is true, accurate, and complete. The report shall include all of the following information:
  - (i) The specific conditions that were not met.
  - (ii) The waste name associated with the LLMW.
  - (iii) The hazardous waste number associated with the LLMW.
  - (iv) The quantity of LLMW involved.
  - (v) The storage or treatment location at the facility.
  - (vi) The date or dates upon which the failure to meet the conditions occurred.
- (6) If the failure to meet any of the LLMW storage and treatment conditional exemption conditions may endanger human health or the environment, oral notification to the department shall be made within 24 hours and follow-up written notification shall be provided within 5 days. Failures that may endanger human health or the environment include, but are not limited to, the discharge of a cercla reportable quantity, leaking or exploding tanks or containers, detection of radionuclides above background, or detection of hazardous constituents in the leachate collection system of a storage area. Failures that may endanger human health or the environment require execution of emergency plans.
- (7) The department may terminate a LLMW storage and treatment conditional exemption, or require additional conditions to claim an exemption, for serious or repeated noncompliance with any of the requirements of this rule and R 299.9823.
- (8) Persons that have lost their LLMW storage and treatment conditional exemption may regain their exemption by complying with all of the following requirements:
  - (a) Complying with subrule (4) of this rule.
  - (b) Providing to the department by certified delivery written notification that the exemption is being reclaimed. The notification shall be signed by an authorized representative certifying that the information contained in the notice is true, accurate, and complete. The notification shall contain all of the following information:
    - (i) An explanation of the circumstances surrounding each failure to comply.
    - (ii) A certification that each failure has been corrected and that all of the conditions required for the exemption have been met as of the specified date.
    - (iii) A description of the plans that have been implemented, listing the specific steps taken to ensure that all of the conditions required for the exemption will be met in the future.
    - (iv) Any other information that should be considered by the department in reviewing the notice to reclaim the exemption.
- (9) The department may terminate a reclaimed LLMW storage and treatment conditional exemption if the department finds that the claim is inappropriate based on factors including, but not limited to, any of the following:
  - (a) Not correcting the problem which resulted in loss of the exemption.
  - (b) Providing an unsatisfactory explanation of the circumstances surrounding the failure to comply with the requirements for the exemption.
  - (c) Not implementing a plan with steps to prevent another failure to comply with the requirements for the exemption.
- (10) When reviewing a request to reclaim the LLMW storage and treatment conditional exemption under subrule (18) of this rule, the department may add additional conditions to the LLMW storage and



treatment conditional exemption to ensure that the waste management during the storage and treatment of the waste will protect human health and the environment.

(11) In addition to the records required by a NRC or NRC agreement state license, all of the following records shall be kept:

(a) Initial notification records, return receipts, reports regarding failure to meet the exemption conditions, and all records supporting any reclamation of an exemption.

(b) Records of the LLMW annual inventories and quarterly inspections.

(c) Certification that facility personnel who manage stored or treated LLMW are trained in the safe management of the waste, including training in chemical waste management and hazardous materials incidents response.

(d) The emergency plan specified in subrule (4)(f) of this rule.

(12) Records concerning notifications, personnel training, and emergency plans shall be maintained at the facility for as long as the LLMW storage and treatment conditional exemption is claimed and for 3 years thereafter, or pursuant to NRC regulations under 10 C.F.R. part 20 or equivalent NRC agreement state regulations, whichever is longer.

Records concerning annual inventories and quarterly inspections shall be maintained at the facility for 3 years after the waste is sent for disposal, or pursuant to NRC regulations under 10 C.F.R. part 20 or equivalent NRC agreement state regulations, whichever is longer.

(13) The LLMW storage and treatment conditional exemption does not apply in the following situations:

(a) Once the LLMW has met the requirements of the NRC or NRC agreement state license for decay-in-storage and can be disposed of as nonradioactive waste. On that date, the waste is subject to regulation as a hazardous waste under these rules and the time period for accumulation of hazardous waste specified in part 3 of these rules begins.

(b) Once the LLMW, which has been generated and stored or treated under a single NRC or NRC agreement state license number, is removed from storage. However, the LLMW may qualify for the transportation and disposal conditional exemption in R 299.9823.

(14) Facilities that have been used to store only LLMW before the effective date of this rule, and after that date, store only LLMW which becomes exempt under this rule or R 299.9823, are not subject to the closure requirements of part 6 of these rules. Storage and treatment units, or portions thereof, that have been used to store both LLMW and non-mixed hazardous waste before the effective date of this rule, or are used to store both wastes after that date, remain subject to the closure requirements with respect to the non-mixed hazardous waste.

(15) The provisions of 10 C.F.R. part 20 and 40 C.F.R. §265.16(a)(3) are adopted by reference in R 299.11003.

**R 299.9823 Low-level mixed waste and NARM waste transportation and disposal; conditional exemption, eligibility, and standards.**

Rule 823. (1) Persons transporting and disposing of LLMW and NARM waste shall comply with the requirements of these rules unless otherwise specified in this rule.

(2) LLMW and NARM waste are exempt from the definition of hazardous waste under the transportation and disposal conditional exemption if both of the following requirements are met:

(a) The waste meets the eligibility requirements of subrule (3) of this rule.

(b) Persons transporting or disposing of the waste comply with subrule (4) of this rule. (3) Waste is eligible for the transportation and disposal conditional exemption if it meets the LLMW acceptance criteria of a low-level radioactive waste disposal facility or is eligible NARM waste.

(4) To qualify for and maintain the transportation and disposal conditional exemption, persons transporting or disposing of LLMW or eligible NARM waste shall comply with all of the following requirements:

(a) Provide to the department by certified delivery a 1-time written notification that the exemption is being claimed. This notification shall be provided before the initial shipment of exempted radioactive waste from the facility to a low-level radioactive waste disposal facility. The dated notification shall include all of the following information:

- (i) The name of the facility from which the waste will be shipped.
- (ii) The address of the facility from which the waste will be shipped.
- (iii) The telephone number of the facility from which the waste will be shipped.
- (iv) The site identification number of the facility from which the waste will be shipped.

(b) A notification to the low-level radioactive waste disposal facility receiving the exempted radioactive waste. The notification shall be sent by certified delivery and shall be provided before shipment of each exempted radioactive waste. The exempted radioactive waste may only be shipped when the facility shipping the waste has received the return receipt of the notice to the low-level radioactive waste disposal facility. The notification shall include all of the following information:

- (i) A statement that the exemption is being claimed for the waste.
- (ii) A statement that the eligible waste meets the applicable land disposal restriction treatment standards.
- (iii) The shipping facility's name.
- (iv) The shipping facility's address.
- (v) The shipping facility's site identification number.
- (vi) The applicable hazardous waste number or numbers before the exemption of the waste.
- (vii) A statement that the exempted radioactive waste must be placed in a container pursuant to subdivision (e) of this subrule before disposal in order for the waste to remain exempt under the transportation and disposal conditional exemption.
- (viii) The manifest number of the shipment that will contain the exempted radioactive waste.
- (ix) The signature of an authorized representative certifying that the information in the notification is true, accurate, and complete.

(c) The LLMW and eligible NARM waste shall meet or be treated to meet the land disposal restriction treatment standards specified in 40 C.F.R. part 268, subpart D.

(d) If a person is not already subject to NRC or NRC agreement state equivalent manifest and transportation regulations for shipping waste, the person shall manifest the waste pursuant to 10 C.F.R. §20.2006, or NRC agreement state equivalent regulations, and transport the waste pursuant to 10 C.F.R. §71.5, or NRC agreement state equivalent regulations.

(e) The LLMW and eligible NARM waste shall be in containers when it is disposed of in the low-level radioactive waste disposal facility. The containers shall be 1 of the following:

- (i) A carbon steel drum.
- (ii) An alternative container with equivalent containment performance in the disposal environment as a carbon steel drum.
- (iii) A high integrity container as defined by NRC.

(f) The LLMW and eligible NARM waste shall be disposed of at a designated low-level radioactive waste disposal facility that is regulated and licensed by the NRC under 10 C.F.R. part 61 or by an NRC agreement state under equivalent state regulations, including state NARM licensing regulations for eligible NARM waste.

(5) The transportation and disposal conditional exemption shall become effective when all of the following requirements have been met:

- (a) The LLMW and eligible NARM waste meets the applicable land disposal restriction treatment standards.
- (b) The shipping facility has received return receipts that the department and the low-level radioactive waste disposal facility have received the notifications referenced in subrule (4) of this rule.
- (c) The shipping facility has completed the packaging and preparation for shipment requirements for the waste according to 10 C.F.R. part 71 or NRC agreement state equivalent regulations, and the manifest for the waste has been prepared according to 10 C.F.R. part 20 or NRC agreement state equivalent regulations.
- (d) The LLMW and eligible NARM waste has been placed on a transportation vehicle destined for a low-level radioactive waste disposal facility licensed by the NRC or an NRC agreement state.
- (6) Failure to comply with subrule (4) of this rule shall result in the automatic loss of the conditional exemption of subrule (2) of this rule. If the exemption is lost, the person handling the LLMW or eligible NARM waste shall comply with all of the following requirements:
  - (a) Provide a written report by certified delivery to the department and the NRC, or the oversight agency in the NRC agreement state. The report shall be submitted within 30 days of learning of the failure to comply. The report shall be signed by an authorized representative certifying that the information provided in the report is true, accurate, and complete. The report shall include all of the following information:
    - (i) The specific conditions that were not met.
    - (ii) The name of the waste losing the exemption.
    - (iii) The hazardous waste number of the waste losing the exemption.
    - (iv) The quantity of waste losing the exemption.
    - (v) The dates upon which the failure to meet the conditions occurred.
  - (7) If the failure to meet any of the transportation and disposal conditional exemption conditions may endanger human health or the environment, oral notification to the department shall be made within 24 hours and follow up written notification shall be provided within 5 days.
  - (8) The department may terminate a transportation and disposal conditional exemption, or require additional conditions to claim an exemption, for serious or repeated noncompliance with any of the requirements of this rule and R 299.9822.
  - (9) A person who has lost a transportation and disposal conditional exemption may regain an exemption. The exemption may only be reclaimed after receipt of the return receipt confirming that the department has received the notification of loss of the exemption, and by complying with all of the following requirements:
    - (a) Complying with subrule (4) of this rule.
    - (b) Providing to the department by certified delivery written notification that the exemption is being reclaimed. The notification shall be signed by an authorized representative certifying that the information contained in the notice is true, accurate, and complete. The notification shall contain all of the following information:
      - (i) An explanation of the circumstances surrounding each failure to comply.
      - (ii) A certification that each failure has been corrected and that all of the conditions required for the exemption have been met as of the specified date.
      - (iii) A description of the plans that have been implemented, listing the specific steps taken to ensure that all of the conditions required for the exemption will be met in the future.
      - (iv) Any other information that should be considered by the department in reviewing the notice to reclaim the exemption.
  - (10) The department may terminate a reclaimed transportation and disposal conditional exemption if the department finds that the claim is inappropriate based on factors including, but not limited to, any of the following:

- (a) Not correcting the problem which resulted in loss of the exemption.
  - (b) Providing an unsatisfactory explanation of the circumstances surrounding the failure to comply with the requirements for the exemption.
  - (c) Not implementing a plan with steps to prevent another failure to comply with the requirements for the exemption.
- (11) When reviewing a request to reclaim the transportation and disposal conditional exemption, the department may add additional conditions to the transportation and disposal conditional exemption to ensure that the waste management during the transportation and disposal activities will protect human health and the environment.
- (12) In addition to the records required by a NRC or NRC agreement state license, all of the following records shall be kept:
- (a) The records required pursuant to R 299.9601(1) and (2) and 40 C.F.R. §268.7 to demonstrate that the waste has met the land disposal restriction treatment standards before claiming the exemption.
  - (b) Notification records and return receipts required pursuant to subrules (6), (7), and (9) of this rule. This information shall be kept at the facility for 3 years after the exempted radioactive waste is sent for disposal.
  - (c) Notification records and return receipts required pursuant to subrule (4)(a) of this rule. This information shall be kept for 3 years after the last exempted radioactive waste is sent for disposal.
  - (d) Notification records and return receipts required pursuant to (4)(b) of this rule. This information shall be kept for 3 years after the exempted radioactive waste is sent for disposal.
  - (e) If a person is not already subject to the NRC or NRC agreement state equivalent manifest and transportation regulations for the shipment of the waste, all other documents related to tracking the exempted radioactive waste as required under 10 C.F.R. §20.2006 or NRC agreement state equivalent regulations, including applicable NARM requirements.
- (13) The provisions of 10 C.F.R. §71.5, and 10 C.F.R. parts 20 and 61 are adopted by reference in R 299.11003.

## **PART 10. AVAILABILITY OF REFERENCED MATERIALS**

### **R 299.11001 Publications; adoption by reference.**

Rule 1001. (1) The following ASTM standards are adopted by reference in these rules:

- (a) D93-79 (\$35).
- (b) D93-80 (\$35).
- (c) D147-70 (\$30).
- (d) D168-88 (25).
- (e) D421 (\$25).
- (f) D422-63 (\$30).
- (g) D698-91 (\$30).
- (h) D1557-91 (\$30).
- (i) D1586-67 (\$30).
- (j) D1946-82 (\$30).
- (k) D2216 (\$25).
- (l) D2267-88 (\$30).
- (m) D2382-83 (\$30).
- (n) D2434-68 (30).
- (o) D2487-69 (reapproved 1979) (\$35).
- (p) D2879-92 (\$30).
- (q) D2922-78 (\$30).

- (r) D3278-78 (\$30).
- (s) D4318-94 (\$35).
- (t) D5084-90 (\$30).
- (u) D5092-90 (\$25).
- (v) D5299-92 (\$35).
- (w) D6450-99 (\$30).
- (x) E168-88 (\$35).
- (y) E169-87 (\$30).
- (z) E260-85 (\$35).

(aa) E926-88, Test Method C (\$30).

(2) The standards listed in subrule (1) of this rule are available from the American Society for Testing and Materials, Sales Services, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, for the costs identified in subrule (1). The costs identified in subrule (1) reflect the costs at the time these rules were promulgated. The standards adopted in subrule (1) of this rule are available for inspection at the Lansing office of the department and the Office of the Federal Register, 800 North Capital Street, NW, Washington, DC 20408.

(3) The publication entitled "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981, is adopted by reference in these rules. The publication is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, for \$70, the cost at the time these rules were promulgated. The publication adopted in this subrule is available for inspection at the Lansing office of the department.

The publication entitled "U.S. EPA, Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-454/R-92-019, is adopted by reference in these rules. The publication is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, for \$34, the cost at the time these rules were promulgated. The publication adopted in this subrule is available for inspection at the Lansing office of the department.

(5) The publication entitled "API Publication 2517, Third Edition, Evaporative Loss From External Floating Roof Tanks," February 1989, is adopted by reference in these rules. The publication is available from the American Petroleum Institute, 1220 L Street, NW, Washington, DC, 20005, for \$80, the cost at the time these rules were promulgated. The publication adopted in this subrule is available for inspection at the Lansing office of the department.

(6) The publication entitled "Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry." The publication is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, for \$25.50, the cost at the time these rules were promulgated. The publication adopted in this subrule is available for inspection at the Lansing office of the department.

**R 299.11002 NFPA standard; adoption by reference.**

Rule 1002. (1) The NFPA standard no. 704 (2001) is adopted by reference in these rules.

(2) The standard listed in subrule (1) of this rule is available from the National Fire Protection Association, Library, 1 Batterymarch Drive, Quincy, Massachusetts 02269-9101, for \$27.75, the cost at the time these rules were promulgated. The standard adopted in this rule is available for inspection at the Lansing office of the department.

**R 299.11003 Adoption by reference of federal regulations.**

Rule 1003. (1) The following federal regulations in 40 C.F.R. are adopted by reference in these rules:

- (a) 40 C.F.R. part 60, appendices A and B.
  - (b) 40 C.F.R. part 63, subparts EEE and LLL.
  - (c) 40 C.F.R. part 124.
  - (d) 40 C.F.R. part 144.
  - (e) 40 C.F.R. part 145.
  - (f) 40 C.F.R. part 146.
  - (g) 40 C.F.R. part 147.
  - (h) 40 C.F.R. §§260.20, 260.21, 260.22, 260.31, 260.32, and 260.33.
  - (i) 40 C.F.R. §§261.10, 261.11, and 261.38, except 261.38(a) and (b).
  - (j) 40 C.F.R. part 261, appendix I, appendix II, appendix III, appendix VII, and appendix VIII.
  - (k) 40 C.F.R. §§262.40(a), (c), and (d), 262.41(a)(1)-(8), and 262.43, and 40 C.F.R. part 262, subparts E and H, except 40 C.F.R. §§262.54, 262.55, and 262.80.
  - (l) 40 C.F.R. part 263, subpart B.
  - (m) 40 C.F.R. part 264, subpart B, subpart C, subpart D, subpart F, subpart G, subpart I, subpart J, subpart K, subpart L, subpart M, subpart N, subpart O, subpart X, subpart W, subpart AA, subpart BB, subpart CC, subpart EE, except 40 C.F.R. §§264.94(a)(2) and (3), 264.94(b) and (c), 264.100, 264.101, 264.112(d)(1), 264.115, 264.120, 264.221(f), 264.251(f), 264.301(f), 264.340(a) to (d), 264.344(a)(2) and (b), and 264.1200.
  - (n) 40 C.F.R. §§264.1(j)(1) to (13), 264.73, 264.75(a)-(j), 264.94(a)(2), table 1, 264.141, 264.142, 264.144, 264.147(c), (d), and (f), 264.151(g), 264.341, 264.342(b)(1), 264.343, 264.344(c)(1) and (c)(2), 264.345, 264.347, and 264.554, except 264.554(l).
  - (o) 40 C.F.R. part 264, appendix I and appendix IX.
  - (p) 40 C.F.R. part 265, except subparts E, H, DD, and O, and 40 C.F.R. §§265.112(d)(1), 265.115, and 265.120.
  - (q) 40 C.F.R. part 265, appendices I and VI.
  - (r) 40 C.F.R. part 266, subpart H, except §§266.100(a) and (b), 266.101, 266.102(a), and 266.112(a) and (c).
  - (s) 40 C.F.R. §§266.203 and 266.205(a), (b), (d), and (e).
  - (t) 40 C.F.R. part 266, appendices I through XIII.
  - (u) 40 C.F.R. part 268, including appendices II through XI.
  - (v) 40 C.F.R. §§270.10(e), (g), and (k); 270.11; 270.13; 270.14(b) and (d); 270.15; 270.16; 270.17; 270.18; 270.19(c); 270.20; 270.21; 270.22; 270.23; 270.24; 270.25; 270.26; 270.27; 270.30, except §270.30(l)(1) and (8); 270.31; 270.33; 270.41(a), except §270.41(a)(3); 270.62(a) to (d); 270.64; 270.66; 270.70; 270.71; 270.73; and 40 C.F.R. part 270, subpart H, except §§270.80, 270.85, 270.90, 270.155, 270.160, 270.190, 270.195, and 270.235(a).
  - (w) 40 C.F.R. part 273, subpart B, subpart C, subpart D, and subpart E, except §§273.10, 273.18(b), 273.30, 273.38(b), 273.50, 273.53, and 273.60.
  - (x) 40 C.F.R. §§279.22, except §279.22(a); 279.23, 279.24, 279.33, 279.41 to 279.43, 279.45, except §279.45(b); 279.46, 279.51, 279.52, 279.54, except §279.54(a); 279.55 to 279.58, 279.61, 279.62, 279.64, except §279.64(a); 279.65, 279.66, 279.73, and 279.75.
  - (y) 40 C.F.R. part 280.
  - (z) 40 C.F.R. part 761.
- (2) Federal hazardous waste regulations are contained in 40 C.F.R. part 60 (appendices), 40 C.F.R. part 63, 40 C.F.R. parts 100 to 135, 40 C.F.R. 136 to 149, 40 C.F.R. parts 260 to 265, 40 C.F.R. parts 266 to 299, and 40 C.F.R. part 700 to 789, July 1, 2003 editions. These editions are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, for \$58, \$50, \$43, \$61, \$50, \$50, and \$61, respectively, the costs at the time these rules were promulgated. Reprints of

these federal registers are available from Solid Waste Information, United States EPA, 26 West St. Clair Street, Cincinnati, Ohio 45268, at no cost. The sections adopted by reference in this rule are available for inspection at the Lansing office of the department.

**R 299.11004 Federal regulations in 10 C.F.R., 29 C.F.R., 33 C.F.R., and 49 C.F.R.; adoption by reference.**

Rule 1004. (1) The federal regulations in 10 C.F.R. part 20, 10 C.F.R. part 61, and 10 C.F.R. part 71 are adopted by reference in these rules.

(2) The federal regulations in 29 C.F.R. §§1910.120(q) and 1910.132 to 1910.138 and 29 C.F.R. part 1910, subpart L, are adopted by reference in these rules.

(3) The federal regulations in 33 C.F.R. §153.203 are adopted by reference in these rules.

(4) The following federal regulations in 49 C.F.R. are adopted by reference in these rules:

(a) 49 C.F.R. part 107.

(b) 49 C.F.R. part 130.

(c) 49 C.F.R. part 171.

(d) 49 C.F.R. part 172.

(e) 49 C.F.R. part 173.

(f) 49 C.F.R. part 174.

(g) 49 C.F.R. part 175.

(h) 49 C.F.R. part 176.

(i) 49 C.F.R. part 177.

(j) 49 C.F.R. part 178.

(k) 49 C.F.R. part 179.

(l) 49 C.F.R. part 180.

(m) 49 C.F.R. §390.21.

(5) Federal nuclear regulatory commission regulations are contained in 10 C.F.R. parts 1 to 50 and 10 C.F.R. parts 51 to 199, January 1, 2004 editions. Federal labor regulations are contained in 29 C.F.R. parts 1900 to 1910 and 29 C.F.R. parts 1927 to end, July 1, 2003 editions. Federal navigation regulations are contained in 33 C.F.R. parts 125 to 199, July 1, 2003 edition. Federal transportation regulations are contained in 49 C.F.R. parts 100 to 185 and 49 C.F.R. parts 200 to 399, October 1, 2003 editions. These editions are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, for \$60, \$58, \$61, \$62, \$61, \$63, and \$64 respectively, the costs at the time these rules were promulgated. The sections adopted in this rule are available for inspection at the Lansing office of the department.

**R 299.11005 Test methods for evaluating solid waste; adoption by reference.**

Rule 1005. (1) Test methods in the publication entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, Third Edition, November 1986, and its updates I (July 1992), II (September 1994) and IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998) are adopted by reference in these rules.

(2) The documents listed in subrule (1) of this rule are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 512-1800, Document Number 955-001-00000-1, for \$367, the total cost at the time these rules were promulgated. The update documents listed in subrule (1) of this rule are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, (703) 605-6000 or (800) 553-6847, for \$211, \$123, \$101, \$21.50, \$150, and \$25.50, respectively, the costs at the time these rules were promulgated. Update IIIA is available through the United States EPA'S Methods Information Communication Exchange Service at (703) 676-4690 and the United States EPA, Office of Solid Waste

(5307W), OSW Methods Team, 1200 Pennsylvania Avenue, NW, Washington, DC 20460 at no cost. The documents adopted in this rule are available for inspection at the Lansing office of the department, the Library, United States EPA, 401 M Street, SW, Washington, DC 20460, and the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20002.

**R 299.11006 Analytical method for aflatoxins; adoption by reference.**

Rule 1006. (1) The analytical method for aflatoxin in the official methods of analysis of the AOAC International, subsection 26, natural poisons, 16th edition, 1995, is adopted by reference in these rules.

(2) The analytical method listed in subrule (1) of this rule is available from AOAC International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877, at cost. The document adopted in this rule is available for inspection at the Lansing office of the department.

**R 299.11007 Standard industrial classification manual; adoption by reference.**

Rule 1007. (1) The office of management and budget document entitled "Standard Industrial Classification Manual" is adopted by reference in these rules.

(2) The document adopted in subrule (1) of this rule is available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at cost. The document adopted in this rule is available for inspection at the Lansing office of the department.

**R 299.11008 Soil permeability method; adoption by reference.**

Rule 1008. (1) The triaxial cell method for determining the permeability of soil contained in the EPA document entitled "Soil Properties, Classification, and Hydraulic Conductivity Testing," 1984 edition, is adopted by reference in these rules.

The document listed in subrule (1) of this rule is available from the United States EPA, Office of Solid Waste, 401 M Street, SW, Washington, DC 20460, at cost. The document is available for inspection at the Lansing office of the department.



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**ADMINISTRATIVE RULES**

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**ORR # 2003-015**

**DEPARTMENT OF LABOR & ECONOMIC GROWTH**

**DIRECTOR'S OFFICE**

**CONSTRUCTION CODE**

Filed with the Secretary of State on December 16, 2004.  
These rules take effect on February 28, 2005

(By authority conferred on the director of the department of labor & economic growth by section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 1996-2 and 2003-1, MCL 445.2001 and 445.2011)

R 408.31061, R 408.31062, R 408.31063, R 408.31064, R 408.31065, R 408.31066, R 408.31070, of the Michigan Administrative Code are amended, R 408.31059, R 408.31060 and R 408.31069 are added to the Code, and R 408.31071, R 408.31072, R 408.31073, R 408.31074, R 408.31075, R 408.31076, R 408.31077, R 408.31078, R 408.31079, R 408.31080, R 408.31081, R 408.31082, R 408.31083, R 408.31084, R 408.31085, R 408.31086 of the code are rescinded as follows:

**PART 10**  
**MICHIGAN UNIFORM ENERGY CODE**

**R 408.31059 Applicable code.**

Rule 1059. Rules governing the energy efficiency for the design and construction of residential buildings shall be those contained in Chapter 11 of the 2003 International Residential Code. With the exceptions noted, Chapter 11 of the 2003 International Residential Code is adopted by reference in these rules. The Michigan uniform energy code is available for inspection or purchase at the Okemos office of the Michigan Department of Labor & Economic Growth, Bureau of Construction Codes and Fire Safety, 2501 Woodlake Circle, Okemos, Michigan 48864, at a cost as of the time of adoption of these rules of \$2.50.

**R 408.31060 Scope.**

Rule 1060. Sections N1101.1, N1101.2, N1101.2.1 and table N1101.2 of the code are amended to read as follows:

N1101.1. Scope. This chapter sets forth the energy efficiency standards for detached 1-and 2-family dwellings and multiple-single family dwellings. One-and 2-family dwellings and multiple-single family dwellings shall be designed and constructed as regulated by the code for energy efficiency.

Exceptions:

1. A detached 1-and 2-family dwelling or portion thereof that has an intended maximum rate of energy usage less than 3.4 Btu/h per square foot of floor space for all purposes.
2. Portions of a detached 1-and 2-family dwelling that is not heated or mechanically cooled.
3. An existing detached 1-and 2-family dwelling, other than replacement fenestration as provided by section N1102.4.

4. An alteration of an existing detached 1-and 2-family dwelling.
5. A detached 1-and 2-family dwelling that is moved into or within a jurisdiction. A home manufactured pursuant to the Michigan premanufactured unit rules that is shipped for initial installation or initial assembly and installation on a building site shall not be considered a moved building.
6. Historical structures listed on the state or national historical register.

N1101.2 Compliance. Compliance with the code shall be demonstrated by meeting the requirements of the applicable sections and tables of the code. Where applicable, provisions are based on the climate zones where the building is located. The climate zone assignments are as set forth in table N1101.2 for the county in which the building is constructed. The permit applicant shall determine the method used to achieve compliance with the provisions of the code at the time of application for permit.

N1101.2.1 Detached 1-and-2 family dwellings. Compliance shall be demonstrated by 1 of the following:

1. Meeting the requirements of the code.
2. Meeting the requirements of the International Energy Conservation Code for detached 1- and 2-family dwellings.
3. Meeting the design, construction and certification requirements under the US EPA Energy Star Homes Program ®.
4. Meeting the design and construction requirements in conformance with the national Home Energy Rating System (HERS) guidelines with a score of 83 or better. A certificate indicating the score prepared by an accredited agency shall be filed with the code official.

Table N1101.2  
Climate Zones by County

Zones		
1	2	3
Allegan	Alcona	Alger
Barry	Alpena	Baraga
Berrien	Antrim	Chippewa
Branch	Arenac	Delta
Calhoun	Bay	Dickinson
Cass	Benzie	Gogebic
Clinton	Charlevoix	Houghton
Eaton	Cheboygan	Iron
Genesee	Clare	Keweenaw
Gratiot	Crawford	Luce
Hillsdale	Emmet	Mackinac
Huron	Gladwin	Marquette
Ingham	Grand Traverse	Menominee
Ionia	Iosco	Ontonagon
Jackson	Isabella	Schoolcraft
Kalamazoo	Kalkaska	
Kent	Lake	
Lapeer	Leelanau	
Lenawee	Manistee	
Livingston	Mason	
Macomb	Mecosta	

Monroe	Midland	
Montcalm	Missaukee	
Muskegon	Montmorency	
Oakland	Newaygo	
Ottawa	Oceana	
Saginaw	Ogemaw	
Sanilac	Osceola	
Shiawassee	Oscoda	
St. Clair	Otsego	
St. Joseph	Presque Isle	
Tuscola	Roscommon	
Van Buren	Wexford	
Washtenaw		
Wayne		

**R 408.31061 Definitions.**

Rule 1061. Section N1101.4 is added to the code to read as follows:

N1101.4 Definitions. Definitions shall have the meanings as defined in the code.

**R 408.31062 Fenestration**

Rule 1062. Section N1101.3.2 of the code is amended to read as follows:

N1101.3.2. Fenestration. The *U*-factor of fenestration shall be determined in accordance with NFRC 100 by an accredited, independent laboratory, and labeled and certified by the manufacturer. The solar heat gain coefficient (SHGC) of fenestration shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer.

Exception: Computer simulations by independent NFRC certified laboratories or approval under section 21 of 1972 PA 230, MCL 125.1521 are considered in compliance with this section.

N1101.3.2.3 R-values of fenestration products. Windows, doors and skylights shall be rated for thermal resistance based on the entire fenestration unit. The R-values of all fenestration products in a building shall be the reciprocal of the *U*-factor and meet the requirements set forth in table N1102.1. The *U*-factor may be converted to R values by using the inverse of the *U*-factor ( $R \text{ value} = 1/U\text{-factor}$ ).

**R 408.31063 Thermal performance criteria.**

Rule 1063. Thermal performance criteria. Tables N1102.1, N1102.1.1.1(1), and N1102.1.1.2 of the code are amended to read as follows:

**TABLE N1102.1**  
**SIMPLIFIED PRESCRIPTIVE BUILDING ENVELOPE THERMAL COMPONENT**  
**CRITERIA MINIMUM REQUIRED THERMAL PERFORMANCE (*U*-FACTOR AND *R*-**  
**VALUE)**

Exterior Enclosure	Zones		
	1	2	3
Wall Assemblies	R-21	R-21	R-21
Fenestration/Openings (area weighted average of the total area of fenestration units) <sup>1</sup> ,	U =0.35 (R= 2.85)		

Roof/Ceiling Assemblies <sup>2</sup>		R-49	R-49	R-49
Floors over unconditioned spaces		R-21	R-21	R-21
Slab on grade construction <sup>3</sup>		R-11	R-13	R-18
Crawl space walls <sup>4</sup>		R-20	R-20	R-20
Basement walls	Continuous Insulation	R-10	R-10	R-15
	Cavity Insulation	R-11	R-11	R-19

<sup>1</sup> Fenestration units are required to meet this standard for the entire unit.

<sup>2</sup> Skylight U (1/R) factors are required to meet the fenestration requirements set forth in this table for fenestration/openings. Skylights are limited to 10% of the gross roof/ceiling area.

<sup>3</sup> See section N1102.1.6 for additional installation criteria.

<sup>4</sup> See section N1102.1.7 for additional installation criteria.

**TABLE N1102.1.1.1(1)**  
**MASS WALL PRESCRIPTIVE BUILDING ENVELOPE REQUIREMENTS**

BUILDING LOCATION		MASS WALL ASSEMBLY R-VALUE <sup>a</sup> (hr·ft <sup>2</sup> ·°F) / Btu	
Climate Zone	HDD	Exterior or integral insulation	Other mass walls
1	6,000-6,999	R-15.5	R-18.4
2	7,000-8,499	R-15.5	R-18.4
3	8,500-12,999	R-18.4	R-18.4

For SI: 1 (hr·ft<sup>2</sup>·°F)/Btu = 0.176 m<sup>2</sup>·K/W.

**TABLE N1102.1.1.2**  
**STEEL-FRAME WALL MINIMUM PERFORMANCE REQUIREMENTS (R-VALUE)**

CLIMATE ZONES	HDD	EQUIVALENT STEEL-FRAME WALL CAVITY AND SHEATHING R-VALUE <sup>a</sup> (hr ft <sup>2</sup> °F) / Btu
1	6,000-6,999	R-13+R-10, R-19+R-9, R-25+R-8
2	7,000-8,499	R-13+R-10, R-19+R-9, R-25+R-8
3	8,500-12,999	R-13+R-10, R-19+R-9, R-25+R-8

For SI: 1 (hr·ft<sup>2</sup>·°F)/Btu = 0.176 m<sup>2</sup>·K/W.

a. The cavity insulation R-value requirement is listed first, followed by the sheathing R-value requirement.

**R 408.30164 Replacement fenestration.**

Rule 1064. Section N1102.4 of the code is amended to read as follows:

N1102.4. Replacement fenestration. Where some or all of an existing fenestration unit is replaced with an entirely new replacement fenestration product, including frame, sash and glazed portion, in an existing building, the replacement fenestration shall have a U-factor that does not exceed the maximum fenestration U-factor and an SHGC that does not exceed the maximum fenestration SHGC in table N1102.5. Replacement skylights and roof windows shall be permitted to have a maximum U-factor of 0.60. The replacement fenestration products shall also satisfy the air leakage requirements of section N1101.3.2.2.

**R 408.31065 Prescriptive path for additions and window replacements.**

Rule 1065. Section N1102.5 and table N1102.5 are added to the code to read as follows:

N1102.5 Prescriptive path for additions and window replacements. As an alternative to demonstrating compliance with section N1105 or N1102, additions with a conditioned floor area less than 500 square feet (46.5m<sup>2</sup>) to existing single-family residential buildings and structures shall meet the prescriptive envelope component criteria in table N1102.5 for the designated heating degree days (HDD) applicable to the location. The *U*-factor of each individual fenestration product (windows, doors and skylights) shall be used to calculate an area-weighted average fenestration product *U*-factor for the addition, which shall not exceed the applicable listed values in table N1102.5. For additions, other than sunroom additions, the total area of fenestration products shall not exceed 40 percent of the gross wall and roof area of the addition. The *R*-values for opaque thermal envelope components shall be equal to or greater than the applicable listed values in table N1102.5. Replacement fenestration products (where some or all of an existing fenestration unit is replaced with an entire new replacement unit, including the frame, sash and glazing) shall meet the prescriptive fenestration *U*-factor criteria in table N1102.5 for the designated HDD applicable to the location.

Conditioned sunroom additions shall maintain thermal isolation; shall not be used as kitchens or sleeping rooms; and shall be served by a separate heating or cooling system, or be thermostatically controlled as a separate zone of the existing system.

Exception: Replacement skylights shall have a maximum *U*-factor of 0.60 when installed in any location above 1,999 HDD.

**TABLE N1102.5**  
***PRESCRIPTIVE ENVELOPE COMPONENT CRITERIA***  
**ADDITIONS TO AND REPLACEMENT WINDOWS FOR EXISTING**  
**DETACHED 1- AND 2-FAMILY DWELLINGS**

HEATING DEGREE DAYS	MAXIMUM	MINIMUM					
	Fenestration <i>U</i> -factor <sup>c</sup>	Ceiling <i>R</i> -value <sup>a,c</sup>	Wall <i>R</i> -value <sup>c</sup>	Floor <i>R</i> -value	Basement wall <i>R</i> -value <sup>b</sup>	Slab perimeter <i>R</i> -value and depth <sup>c</sup>	Crawl space wall <i>R</i> -value <sup>d</sup>
6,000 - 8,499	0.35	R-49	R-21	R-21	R-11	R-13, 4 ft.	R-20
8,500 - 12,999	0.35	R-49	R-21	R-21	R-19	R-18, 4 ft.	R-20

For SI: 1 foot = 304.8 mm.

- a. “Ceiling *R*-value” shall be required for flat or inclined (cathedral) ceilings. Floors over outside air shall meet “Ceiling *R*-value” requirements.
- b. Basement wall insulation shall be installed in accordance with section 502.2.1.6.
- c. Slab perimeter insulation shall be installed in accordance with section 502.2.1.4. An additional *R*-2 shall be added to “Slab perimeter *R*-value” in the table if the slab is heated.
- d. “Crawl space wall *R*-value” shall apply to unventilated crawl spaces only. Crawl space insulation shall be installed in accordance with section 502.2.1.5.
- e. Sunroom additions shall be required to have a maximum fenestration *U*-factor of 0.50 in locations with 2,000 - 12,999 HDD. In locations with 0-5,999 HDD, the minimum ceiling *R*-value shall be *R*-19 and the minimum wall *R*-value shall be *R*-13. In locations with 6,000 - 12,999 HDD, the minimum ceiling *R*-value shall be *R*-24 and the minimum wall *R*-value shall be *R*-13.

#### R 408.31066 Building design

Rule 1066. Sections N1105.1, N1105.1.1, N 1105.1.2 and N1105.1.3 are added to the code to read as follows:

N1105.1 Building design. Residential design by systems analysis. A building designed in accordance with this section is considered in compliance with the code if the calculated heating energy consumption is not more than that of a standard design building envelope designed in accordance with the code. The use of this compliance method is at the election of the permit applicant. For a proposed alternate building design to be considered similar to the standard design, the proposed alternate building design shall be the same as the standard design for all of the following:

- 1. Floor area.
- 2. Thermal envelope area.
- 3. Exterior design conditions.
- 4. Occupancy.
- 5. Climate data.
- 6. Usage operational schedule.

N1105.1.1 Standard building design criteria. The standard building design criteria shall include the following:

- 1. Gas and oil-fired heating source efficiency rating of 78% AFUE.
- 2. An air changes per hour (ACH) rate of 0.55 for the purpose of calculation only.
- 3. For reduced ACH levels, documentation of a post-construction blower-door test shall be provided to the code official.
- 4. A simplified heating degree day (HDD) approach for the appropriate zone, as follows:
  - a. Zone 1 6900 HDD.
  - b. Zone 2 7800 HDD.
  - c. Zone 3 9300 HDD.

Exception: The typical meteorological year (TMY), or its ersatz equivalent, from the national oceanic and atmospheric administration (NOAA) or an approved equivalent, for the closest available location, may be used for the proposed alternative design.

N1105.1.2 Analysis method. The analysis methodology or calculation tool used for comparison of the heating energy usage of the standard and the proposed alternative building design shall be the same.

N1105.1.3 Analysis Report. A heating energy analysis comparison shall be submitted to the code official including all of the following information:

- a. The design criteria used to develop the standard design and the proposed alternative design.
- b. A detailed technical comparison of the 2 building and system designs.
- c. The data used in, and resulting from, the comparative analysis to verify that both the analysis and the design meet the criteria of this section and sections N1105.1 to N1105.2.

**R 408.31069 Renewable energy source analysis.**

Rule 1069. Section N1106.1 is added to the code to read as follows:

N1106.1 Renewable energy source analysis. A building designed to use a renewable energy source for all or part of its energy source shall be designed and constructed in compliance with the requirements of this section.

Exception: The renewable energy may be excluded from the total heating energy consumption allowed for the building.

- a. The renewable energy shall be derived from a specific collection, storage, or distribution system.
- b. The heating energy derived from renewable sources and the reduction in conventional heating energy requirements shall be separately identified from the overall building energy use.
- c. Supporting documentation on the basis of the performance estimates for the renewable energy sources shall be submitted to the code official.

**R 408.31070 Heating energy analysis comparison report.**

Rule 1070. Sections N1107.1, N1107.1.1, N1107.2, abbreviated report form N1107.1, and table N1107.1 are added to the code to read as follows:

N1107.1 Heating energy analysis comparison report. A heating energy comparison report shall be submitted to the code official to include both of the following information:

1. A basic description of the proposed alternate building design and any exceptions to the standard design criteria.
2. Abbreviated report form N1107.1, comparing the alternative house design with a standard design house complying with the provisions of this chapter through the systems analysis method.

Abbreviated Report Form N1107.1

Heating Energy Analysis Comparison Report

Builder=s Name:
Project Address:
City/Township/County:

PROPOSED ALTERNATIVE HOUSE		<i>STANDARD DESIGN HOUSE</i>	
ROOF/CEILING (INC. SKYLIGHTS)	SUBTOT ALS	ROOF/CEILING (INC. SKYLIGHTS)	SUBTOT ALS

$\frac{A_1}{R_1} = \frac{A_1}{R_1}$ $\frac{A_2}{R_2} = \frac{A_2}{R_2}$ $\frac{A_3}{R_3} = \frac{A_3}{R_3}$ $\frac{A_1}{R_1} + \frac{A_2}{R_2} + \frac{A_3}{R_3} =$ <p>Total Roof/Ceiling Area</p>	<p>Line 1</p>	<p>0.0204 =</p> <p>Total Roof/Ceiling Area</p> <p>(all zones)</p>	<p>Line A</p>
<p>GROSS WALL</p>		<p>GROSS WALL</p>	
<p>Opaque Wall (Does not include band joist, windows, doors, etc.)</p> $\frac{A_1}{R_1} = \frac{A_1}{R_1}$ $\frac{A_2}{R_2} = \frac{A_2}{R_2}$ $\frac{A_1}{R_1} + \frac{A_2}{R_2} =$	<p>Line 2</p>		
<p>Band Joist</p> $\frac{A}{R} = \frac{A}{R} =$	<p>Line 3</p>		
<p>Fenestration and Doors, Windows</p> $\frac{A_1}{R_1} = \frac{A_1}{R_1}$ $\frac{A_2}{R_2} = \frac{A_2}{R_2}$ $\frac{A_3}{R_3} = \frac{A_3}{R_3}$ $\frac{A_1}{R_1} + \frac{A_2}{R_2} + \frac{A_3}{R_3} =$	<p>Line 4</p>		



Doors			
$A_1 \quad \quad \quad /R_1 \quad \quad \quad = \quad A_1 /R_1$			
$A_2 \quad \quad \quad /R_2 \quad \quad \quad = \quad A_2 /R_2$	Line 5		
$A_1 /R_1 + A_2 /R_2 =$			
Other			
$A \quad \quad \quad /R \quad \quad \quad = \quad A/R$			
$=$	Line 6		
Total Gross Wall Area			
GROSS WALL SUBTOTAL A/R (Lines: 2+3+4+5+6)	Line 7		
		$0.093 =$	
		Total Gross Wall Area (all zones)	Line B

Abbreviated Report Form N1107.1  
Heating Energy Analysis Comparison Report  
Continued

FOUNDATION/FLOOR	SUBTOT ALS	FOUNDATION/FLOOR	SUBTOT ALS
Floors Over Unconditioned Spaces		Floors Over Unconditioned Spaces	
$A \quad \quad \quad /R \quad \quad \quad = \quad A/R$	Line 8	$0.0204 =$	
		Total Floor Area (all zones)	Line C
Slab on Grade Floors (Area = Perimeter x 2')		Slab on Grade (Unheated)	
$A \quad \quad \quad /R \quad \quad \quad = \quad A/R$	Line 9	$Z_1 0.0909$	
		$Z_2 0.0769 =$	
		Total Slab Edge Area	Line D
		$Z_3 0.050$	

		Slab on Grade (Heated) Z <sub>1</sub> 0.0769	Line E
		$\frac{\quad}{Z_2 0.0667} =$ Total Slab Edge Area Z <sub>3</sub> 0.050	
Crawl Space Walls (Area: Top foundation wall to average finished grade)		Crawl Space	
$A \quad /R \quad = A/R \quad =$	Line 10	$\frac{\quad}{0.050} =$ Total Crawl Space Wall Area (all zones)	Line F
Basement Walls (Area: Top foundation wall to average finished grade)		Basement Walls	
$A_1 \quad /R_1 \quad = A_1 /R_1$		Z <sub>1</sub> 0.090	
$A_2 \quad /R_2 \quad = A_2 /R_2$	Line 11	$\frac{\quad}{Z_2 0.090} =$	Line G
$A_1 /R_1 + A_2 /R_2 =$		Total Gross Basement Wall Area Z <sub>3</sub> 0.055	
Basement Windows	Line 12		
$A \quad /R \quad = A/R \quad =$			
Total Gross Basement Wall Area			
FOUNDATION/FLOOR SUBTOTAL A/R (Lines: 8+9+10+11+12)	Line 13	FOUNDATION/FLOOR SUBTOTAL A/R (Lines: C+D+E+F+G)	Line H
PROPOSED ALTERNATIVE HOUSE SUB-TOTAL A/R (Lines: 1+7+13)	Line 14	STANDARD DESIGN HOUSE SUB-TOTAL A/R (Lines: A+B+H)	Line I
HEATING EQUIPMENT EFFICIENCY (If the same as Standard House, go to line 16 or 17)		HEATING EQUIPMENT EFFICIENCY  (Oil or Gas Fired) AFUE: 78%	

(Oil or Gas Fired) AFUE: _____% Line 14: _____ = Adjusted A/R = AFUE: 0. _____	Line 15	Line I: _____ = Adjusted A/R = AFUE: 0.78	Line J
AIR LEAKAGE RATE (If the same as Standard House, go to line 17)  <div style="display: flex; justify-content: space-between;"> <div>_____ ft<sup>3</sup> x 0.018 =</div> <div>ACH x _____</div> </div> Air Changes per Hour      Volume      of House	Line 16	AIR LEAKAGE RATE  0.55 ACH x _____ ft <sup>3</sup> x 0.018 = Volume of House	Line K
PROPOSED ALTERNATIVE HOUSE TOTAL (Lines: 15+16)  Equal to or less than line L to pass	Line 17	STANDARD DESIGN LIMIT TOTAL (Lines: J+K)	Line L

N1107.1.1 Alternative design constants. The alternative design constants of table N1107.1 may be used for the specific site weather data (heating degree days) for the proposed alternative design.

Table N1107.1

Alternative Standard Design Constants (1/r) for Systems Analysis Approach

Heating Degree Days	6000 – 6499	6500 – 6999	7000 – 7499	7500 – 7999	8000 – 8499	8500 – 8999	9000 +
Roof/Ceiling	0.0204	0.0204	0.0204	0.0204	0.0204	0.0204	0.0204
Gross Wall	0.093	0.093	0.093	0.093	0.093	0.093	0.093
Foundation/floor Floor over unconditioned space	0.0204	0.0204	0.0204	0.0204	0.0204	0.0204	0.0204
Slab on grade Unheated slab	0.0909	0.0909	0.0769	0.0769	0.0769	0.050	0.050
Heated Slab	0.0769	0.0769	0.0667	0.0677	0.0667	0.050	0.050
Crawl space	0.05	0.05	0.05	0.05	0.05	0.05	0.05
Basement wall	0.0909	0.0909	0.0909	0.0909	0.0909	0.0555	0.0555

N1107.2 Compliance. The proposed alternative design shall be determined to be in compliance when the proposed alternative house A/R total (line 14 or line 17 of abbreviated report form N1107.1) is less than or equal to the standard design house (line I or line L of abbreviated report form N1107.1).

**R 408.31071 Rescinded.**

**R 408.31072 Rescinded.**

**R 408.31073 Rescinded.**

**R 408.31074 Rescinded.**

**R 408.31075 Rescinded.**

**R 408.31076 Rescinded.**

**R 408.31077 Rescinded.**

**R 408.31078 Rescinded.**

**R 408.31079 Rescinded.**

**R 408.31080 Rescinded.**

**R 408.31081 Rescinded.**

**R 408.31082 Rescinded.**

**R 408.31083 Rescinded.**

**R 408.31084 Rescinded.**

**R 408.31085 Rescinded..**

**R 408.31086 Rescinded.**

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**ADMINISTRATIVE RULES**

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**ORR # 2004-009**

**DEPARTMENT OF NATURAL RESOURCES**

**FISHERIES DIVISION**

**PINE RIVER NATURAL RIVER ZONING**

Filed with the Secretary of State on December 20, 2004.  
These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of natural resources by section 30512 of Part 305 of 1994 PA 451, MCL 324.30512, and Executive Reorganization Order No. 1991-22, MCL 299.13.)

R 281.101, R 281.102, R 281.103, R 281.104, R 281.105, R 281.106, R 281.107, R 281.108, R 281.109, R 281.110, R 281.111, R 281.112, R 281.113, R 281.114, of the Michigan Administrative Code are added as follows:

**R 281.101 Definitions.**

Rule 1. As used in these rules:

- (a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.
- (b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:
  - (i) Garages.
  - (ii) Residential storage sheds.
  - (iii) Barns and other agricultural storage and livestock structures.
  - (iv) Pump houses.
  - (v) Private access roads.
  - (vi) Electrical service lines.
- (c) "Bluff" means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area at least 100 feet wide (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet.
- (d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of 1972 PA 230, MCL 125.1501 and known as the state construction code act of 1972.
- (e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as required by the provisions of 1972 PA 230, MCL 125.1501.
- (f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.

- (g) "Commission" means the natural resources commission.
- (h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.
- (i) "Director" means the director of the department of natural resources.
- (j) "Enclosed ground floor living area" means the area of the ground covered by a dwelling, including enclosed porches and attached garages, but not including open porches, decks, or patios.
- (k) "Family" means either of the following:
  - (i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single domestic housekeeping unit in a dwelling unit.
  - (ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.
- (l) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, serve as an aid to the infiltration of surface runoff, and provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no mowing or removal of trees, shrubs, or other vegetation.
- (m) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (t) of this rule.
- (n) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge a 100-year flood.
- (o) "Front" means that segment of a lot or parcel closest to or abutting the river's edge of the main stream or tributary.
- (p) "Front yard" means setback as provided for in R 281.107.
- (q) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home by residents of the dwelling as a use which is clearly incidental and secondary to the use of the home as a dwelling place.
- (r) "Home based occupation" means a gainful occupation where business is conducted off-site but equipment such as logging trucks or well drilling rigs are stored at the home site.
- (s) "Impervious surface" means a surface, including paved and unpaved driveways, decks, rooftops, roads, patios, swimming pools, and parking lots, that does not allow stormwater to infiltrate into the ground.
- (t) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.
- (u) "Lot" means a continuous area or acreage of land that can be described for purposes of transfer, sale, lease, rental, or other conveyance.
- (v) "Lot area" means the area inside the lot lines.
- (w) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.

(x) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.

(y) "Lot, vacant" means a lot that does not contain a single family dwelling.

(z) "Natural river district" means the Pine river natural river district as described in R 281.105.

(aa) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

(bb) "Rear yard" means that yard opposite the front yard.

(cc) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.

(dd) "River's edge" means the ordinary high watermark as used in Part 301 of 1994 PA 451, and as defined in subdivision (aa) of this rule.

(ee) "Setback" means the required horizontal distance between any portion of structure and the river's edge, measured at the structure's closest point to the river's edge.

(ff) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains kitchen and bathroom facilities.

(gg) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Part 91 of 1994 PA 451, MCL 282.101.

(hh) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas greater than 24 inches in diameter and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are on site fewer than 30 days per year and if they are located landward of the native vegetation buffer or if the facilities are located on a campsite within a campground that is licensed pursuant to 1978 PA 368 MCL 333.1101, if both the individual campsite and the campground were established before the effective date of these rules.

(ii) "Wetland" means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in Part 303 of 1994 PA 451, MCL 282.101.

(jj) "Zoning administrator" means the administrator of these rules who is appointed by the director.

(kk) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with these rules.

(ll) "Zoning review board" means a group of 7 people which is appointed by the director to act upon requests as provided for by these rules.

### **R 281.102 Purpose; intent; scope.**

Rule 2. (1) The director may, on his or her own motion, implement the intent of Natural Rivers Part 305 of 1994 PA 451, and in the absence of local zoning to protect the Pine river, a designated natural river, promulgates these rules for the following purposes:

(a) To promote the public health, safety, and general welfare; to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river

district; and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Pine river and adjoining land.

(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from investing funds in structures that are proposed for location on lands that are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.

(f) To achieve the goals and objectives of the Pine River natural river plan.

(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Natural Rivers Part 305 of 1994 PA 451, and the rules promulgated thereunder, the provisions of Natural Rivers Part 305 of 1994 PA 451 and the rules promulgated thereunder shall apply.

#### **R 281.103 Construction of language; severability.**

Rule 3. (1) All of the following rules of construction apply to these rules:

(a) A "building" or "structure" includes any part thereof.

(b) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(c) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(d) The terms "lot" and "parcel" have the same meaning.

(e) Terms not defined in these rules shall have the meanings customarily assigned to them.

(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.

#### **R 281.104 Lot size and area; subdivision of land; home and home-based occupations; native vegetation buffer; signs; docks; height of structures; river access stairways; dams; impervious surfaces.**

Rule 4. (1) Unless otherwise provided in these rules, a lot created after the effective date of these rules shall meet all of the following standards on at least 1 side of the stream that is accessible by a public road or legal easement:

(a) Have at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or the parent parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and be at least 200 feet wide at the minimum building setback line.



- (b) Contain at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.
- (c) Contain at least 80,000 square feet of area within the Natural River District (any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area). If the parent parcel does not have river frontage, and the front line of any newly created parcel is greater than 150 feet from the river’s edge at all points, this rule does not apply, and the minimum parcel width will be measured at the front lot line.
- (d) Have sufficient depth to accommodate the required building setbacks pursuant to the standards in R 281.107.
- (2) A lot that exists on the effective date of this rule shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.
- (3) Proposed lots which have preliminary plat approval pursuant to 1967 PA 288, MCL 560.101 but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements in R 281.109 and R 281.110.
- (4) Lots of record which are created before the effective date of these rules and which do not possess sufficient land area or lot width may be used for the purposes described in these rules, subject to the requirements provided for in R 281.109 and R 281.110.
- (5) Home occupations and home-based occupations shall conform to all of the following requirements:
  - (a) The use of the dwelling unit, or related structure, for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes.
  - (b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.
- (6) Within the natural river district, a native vegetation buffer that includes the river and all lands within 100 feet of the ordinary high watermark shall be maintained on each side of the Pine river mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river. A restrictive cutting belt that includes tributaries and all lands within 50 feet of their ordinary high watermarks shall be maintained on each side of all designated tributaries. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river, but clear cutting in the native vegetation buffer is prohibited. The native vegetation buffer is also subject to all of the following provisions:
  - (a) Unsafe trees and noxious plants and shrubs, such as poison ivy and poison sumac, may be removed.
  - (b) The selected removal or trimming of trees for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses is permitted upon approval of the zoning administrator in consultation with local Conservation District staff, if the activity is in keeping with the goals and objectives of the Natural River Plan.
  - (c) Camping other than low-impact tent camping is not permitted in the native vegetation buffer.
  - (d) Mowing is prohibited in the native vegetation buffer except in areas that had been maintained in a mowed condition prior to adoption of these rules or to establish a footpath to the river not to exceed 4 feet wide.
  - (e) In the Pine river system upstream of the confluence of the North Branch Pine river and the East Branch Pine river and on all tributaries, vegetation in the stream channel may not be disturbed except to alleviate flooding that threatens a dwelling. In the Pine River mainstream downstream of the confluence of the North Branch Pine river and the East Branch Pine river vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning

of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel may not be disturbed.

(f) A boardwalk constructed in conjunction with the footpath described in subdivision (d) of this subrule is permitted upon approval of the zoning administrator if it is placed only in areas that are generally too wet to be traversed without significant disturbance of the soils, the boardwalk and supports are constructed of wood, the boardwalk is not more than 3 feet wide and does not include railings, and the top of the boardwalk is not more than 12 inches above grade.

(g) All islands in all stream segments are subject to the native vegetation buffer standards.

(h) A wider native vegetation buffer may be required for certain commercial uses.

(7) Signs for identification, direction, resource information, regulation of use and those related to permitted uses are allowed. Signs for the sale of products or services are prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the native vegetation buffer and not visible from the river. Illuminated signs are prohibited. Signs may be not more than 2 square feet in area. Exceptions include 1 real estate sign not more than 4 square feet outside the native vegetation buffer, and public agencies' signs not larger than 10 square feet, of rustic design and not attached to vegetation. Some public agency signs may need to be larger to warn of impending danger or for interpretative or historic reasons.

(8) Private boat docks shall be in compliance with all of the following requirements:

(a) Docks shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.

(b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.

(c) Unless otherwise provided for in these rules, only 1 dock shall be constructed per lot.

(9) Unless otherwise provided for in these rules, a structure shall not be more than 2 1/2 stories tall, not including a basement, and not more than 35 feet in height measured from the original surface elevation.

(10) Private river access stairways are permitted upon approval of the zoning administrator if in compliance with all of the following requirements:

(a) There is no other safe, feasible access to the river without a stairway.

(b) The stairway is low-profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface unless site and soil conditions dictate that a recessed stairway is more appropriate.

(c) There are no landings associated with the stairway unless required by building codes, in which case the landings shall be of the minimum number and size required by building codes.

(d) Not more than 1 handrail is associated with the stairway.

(e) Only 1 river access stairway is permitted per parcel.

(f) The stairway is constructed using natural materials and is located and maintained to blend with the natural surroundings.

(11) Construction of new dams is prohibited. Reconstruction of a failed dam is permitted under any of the following conditions:

(a) Reconstruction of a dam destroyed by a catastrophic event such as flood may be reconstructed.

(b) Reconstruction of a dam that failed due to lack of maintenance or other negligence by the owner or operator is prohibited.

(c) Reconstruction of a dam that failed due to a catastrophic event shall comply with construction standards in effect at the time of application for replacement.

(d) Application for reconstruction shall be received within 1 year of destruction.

(e) A reconstructed dam shall be rebuilt with a height not greater than the original dam height.

(f) A bottom discharge and fish passage facilities shall be provided for a reconstructed dam where appropriate.

- (g) A request for replacement of a dam destroyed by a catastrophic event shall be handled as a variance request for reconstruction of a destroyed, non-conforming structure.
- (12) The maximum percentage of impervious surface permitted on a lot is as follows:
  - (a) For lots with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by impervious surfaces.
  - (b) For lots with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by impervious surfaces.
  - (c) For lots with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by impervious surfaces.
  - (d) For lots greater than 80,000 square feet of area, not more than 10% of the land surface may be covered by impervious surfaces.

**R 281.105 Boundaries; interpretation of boundaries; filing of zoning map.**

Rule 5. (1) The boundaries of the Pine river natural river district shall be as described in these rules and as depicted on the certified Pine river natural river zoning map. The Pine river natural river zoning district comprises an area that is described as follows:

- (a) The Pine river mainstream, from the confluence of the North Branch Pine river and the East Branch Pine river in section 29 of Burdell Twp., T20N, R10W to M-55.
- (b) The North Branch Pine river from its easternmost crossing of the north line of section 20 of Clam Lake Twp., T21N, R9W to its confluence with the East Branch of the Pine river. Lands adjacent to the North Branch from its confluence with Spalding Creek to its confluence with the East Branch are subject to mainstream development standards.
- (c) Spalding Creek from 46 Road (the south line of section 16 of Cherry Grove Twp., T21N, R10W) to its confluence with the North Branch of the Pine river.
- (d) Fairchild Creek from its source in section 24 of Henderson Twp., T21N, R11W to its confluence with the North Branch of the Pine river.
- (e) Sixteen Creek from its source in section 2 of Burdell Twp., T20N, R10W to its confluence with the North Branch of the Pine river.
- (f) An unnamed stream from the outfall of a dam in section 8 of Burdell Twp., T20N, R10W to its confluence with the Pine river.
- (g) The East Branch of the Pine river from the outfall of a lake in section 1 of Burdell Twp., T20N, R10W to its confluence with the North Branch of the Pine river.
- (h) The Rose Lake Outlet from its sources at the outfall of Rose Lake in section 3 of Rose Lake Township, T19N, R9W and the outfall of Emery Lake in section 34 of Sherman Twp., T20N, R9W, to its confluence with the East Branch of the Pine river.
- (i) Edgett Creek from the west line of section 36 (190th Rd.) in Burdell Twp., T20N, R10W to its confluence with the Rose Lake outlet including both branches of the Diamond Lake outlet from their sources in section 26 of Burdell Twp. to the confluence with Edgett Creek.
- (j) An unnamed stream from its source in section 20 of Sherman Twp., T20N, R9W to its confluence with the Rose Lake outlet.
- (k) Sprague Creek from the outfall of a pond in the center of section 33 of Burdell Twp., T20N, R10W to its confluence with the Pine river.
- (l) Beaver Creek from the north/south centerline of section 11 of LeRoy Twp., T19N, R10W to its confluence with the Pine river.
- (m) Little Beaver Creek from the outlet of a large pond in the northeast 1/4 of section 19 of LeRoy Twp., T19N, R10W to its confluence with Beaver Creek.

- (n) An unnamed stream from the outfall of the southernmost of two ponds in section 14 of Ellsworth Twp., T19N, R11W to its confluence with the Pine river.
- (o) Coe Creek from the outfall of Lake Olga in section 1 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (p) Dyer Creek from the outfall of a small pond in section 13 of Dover Twp., T20N, R11W to its confluence with Coe Creek.
- (q) Sellars Creek from its source in section 21 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (r) An unnamed stream from its source in section 20 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (s) An unnamed stream from its source in section 19 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (t) An unnamed stream from its source in section 24 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (u) Silver Creek from its source in section 15 of Dover Twp., T20N, R11W to its confluence with the Pine river, including all perennial tributaries from their sources to their confluence with Silver Creek.
- (v) An unnamed stream from its source in section 13 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (w) An unnamed stream from its source in section 11 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (x) An unnamed stream from its source in section 7 of Dover Twp., T20N, R11W to its confluence with the Pine river.
- (y) An unnamed stream from its source in section 1 of Newkirk Twp., T20N, R12W to its confluence with the Pine river.
- (z) Poplar Creek from its source in section 26 of Henderson Twp., T21N, R11W to its confluence with the Pine river.
- (aa) Dowling Creek from its 2 sources in sections 21 and 28 of Henderson Twp., T21N, R11W to its confluence with Poplar Creek.
- (bb) Hoxey Creek from its source in section 25 of South Branch Twp., T21N, R12W to its confluence with the Pine river.
- (cc) An unnamed Creek from its sources in section 27 and 34 of South Branch Twp., T21N, R12W to its confluence with the Pine river.
- (dd) Yates Creek from its source in section 22 of South Branch Twp., T21N, R12W to its confluence with the Pine river.
- (ee) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (dd) of this subrule.
- (ff) The lands lying within 400 feet of the river's edge that are enumerated in subdivisions (a) to (ee) of this subrule.
- (2) If uncertainty exists with respect to the boundaries of the district as shown on the zoning map, then all of the following provisions shall apply:
  - (a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.
  - (b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.
  - (c) Boundaries that are indicated as approximately following city, village, township, or county boundaries lines shall be construed as following the city, village, township, or county boundary lines.

- (d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
- (e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines. Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.
- (f) Boundaries that are indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (g) If physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, then the zoning review board shall interpret the district boundaries.
- (h) If a portion or all of the district is indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, then the district boundaries extend to the center of any public right-of-way.
- (3) Certified copies of the Pine river natural river zoning map shall be filed with all of the following entities:
  - (a) The state tax commission.
  - (b) Local tax assessing officers.
  - (c) Township and county clerks.
  - (d) County drain commissioners.
  - (e) Local building department.
  - (f) The natural rivers unit of the Michigan department of natural resources.

**R 281.106 Zoning permits; site plans; certificates of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.107. Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, may require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions, including river frontage.
- (c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Cross section drawing showing height of buildings above water level and bluff heights.
- (h) Entrances to public streets.

- (i) Description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) Location and description of the method to dispose of sanitary wastes.
- (l) Proposed landscaping.
- (m) Location of footpaths.
- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.
- (r) Any additional information required the zoning administrator or zoning review board to carry out the administrator's or board's duties. Examples of such information include the following:
  - (i) Soil types.
  - (ii) Topography.
  - (iii) Building elevations.
  - (iv) Site photographs.
  - (v) Anticipated traffic volumes.
  - (vi) Traffic circulation patterns.
  - (vii) Other pertinent site information.
- (3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes or local zoning permits.

**R 281.107 Land use and development standards.**

Rule 7. (1) Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

- (a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:
  - (i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.
  - (ii) Reforestation and other accepted forest management practices that do not involve permanent structures and that are landward of the native vegetation buffer.
  - (iii) Agricultural activities, such as plowing, disking and planting of crops, including general and specialized farming such as Christmas tree farms, provided that all new activities occur landward of the native vegetation buffer and provided such uses will not significantly contribute to stream degradation. Construction of any residential and farm-related structures and appurtenances are classified as principal uses (see subrule (2) of this rule) and are subject to zoning permit requirements. New aquaculture facilities and concentrated animal feeding operations, and expansion of existing aquaculture facilities and concentrated animal feeding operations, are not permitted within the Natural River District without a land use variance. Resumption of prior agricultural uses that were located within the native vegetation

buffer but have been discontinued, for example, crop fields that are rotated, may resume if 1 of the following criteria is met:

- (A) The cessation of use was within 10 years of resumption of use.
- (B) The cessation of use was due to implementation of a management plan written prior to adoption of these rules.
- (C) The cessation of use was the result of written agreements with a governmental agency or agencies entered into prior to adoption of these rules.
- (D) The cessation of use was the result of written agreements with a governmental agency or agencies entered into after adoption of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.
- (E) The cessation of use was required or imposed by a governmental agency or agencies.
- (iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.
- (v) The off-road operation of emergency and public utility maintenance vehicles, and the operation of motorized or non-motorized wheelchairs by persons with disabilities on footpaths, boardwalks, or other designated trails. Other motorized vehicles may not be operated off the road in the native vegetation buffer as specified in R 281.104.
- (vi) Cutting of low growing vegetation in the native vegetation buffer to create a private footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other above grade walkway is considered a structure and requires a zoning permit.
- (vii) Signs, subject to the provisions of R 281.104.
- (viii) A replacement residential water supply well, provided the replacement well is not closer to the river's edge than the well it is replacing and is landward of the native vegetation buffer, and the replaced well is properly abandoned.
- (ix) Routine maintenance and repairs of principal uses within the existing foundation and structure, subject to R 281.110.
- (x) Satellite dishes that are less than 24 inches in diameter and that are not located in the native vegetation buffer.
- (b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:
  - (i) Single-family dwellings, including detached long-term rental dwellings, if all of the following provisions are complied with:
    - (A) Only 1 dwelling shall be permitted per parcel unless 1 of the following occurs:
      - (1) The property owner develops a site plan for the parent parcel showing theoretical property lines for individual lots based on Natural River development standards, and locates any additional residences and appurtenances as if the property were divided into those separate lots.
      - (2) For each single-family dwelling placed in a cluster-type setting so that the requirements in subdivision (b)(i)(A)(1) are not met, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.104 will be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal lot or parcel as described in R 281.104 will be sold, donated, or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.
    - (B) Building setback for lots shall be not less than 150 feet from the ordinary high watermark on the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river and not less than 100 feet from the ordinary high watermark on all other

designated tributaries, except as described in subdivision (b)(i)(C) of this rule. On the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum distance of 100 feet from the ordinary high water mark. The reduction in setback does not apply until the bank height reaches 25 feet, at which point the reduction in setback is 25 feet. On all other tributaries, the setback may be decreased 1 foot for every 1-foot rise in bank height to a minimum distance of 75 feet from the ordinary high water mark. The reduction in setback does not apply until the bank height reaches 15 feet, at which point the reduction in setback is 15 feet. Structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and the North Branch Pine river from its confluence with Spalding Creek to its confluence with the East Branch Pine river, and not less than 25 feet from the crest of a bluff on all other designated tributaries. Building shall not take place on land that is subject to flooding or in any wetland area. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(C) If a building setback is in an area of concentrated development and a vacant legal nonconforming parcel is between and adjacent to 2 parcels that contain legal single-family dwellings that do not meet the minimum building setbacks, and the adjacent legal non-conforming single-family dwellings are within 300 feet of each other, then the minimum building set back for a new single-family dwelling on the vacant parcel is the distance from the river of the adjacent single-family dwelling that is farthest from the river's edge or the minimum required width of the native vegetation buffer, whichever is greater, provided the single-family dwelling is not placed on lands that are subject to flooding or in any wetland area. All appurtenances and accessory buildings shall meet the minimum required building setback described in subdivision (b)(i)(B). All structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

(ii) Expansion of a legal nonconforming single-family dwelling subject to the provisions of R 281.110(a)(b).

(iii) Accessory buildings and appurtenances that meet requirements of paragraph (i) of this subdivision.

(iv) One private boat dock per parcel, subject to the provisions of R 281.104.

(v) One private river access stairway per parcel, subject to the provisions of R 281.104.

(vi) Utility lines to service private, single-family dwellings.

(vii) Disposal fields, septic tanks, and outhouses if all of the following provisions are complied with:

(A) The septic tank and disposal field meet local health department standards.

(B) The disposal field shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.

(C) The septic tank shall be no closer to the river than the dwelling it serves and shall not be located within the 100-year floodplain or a wetland area.

(D) The bottom of the disposal field shall be at least 4 feet above the seasonal high groundwater table.

(E) An outhouse shall be constructed using a watertight waste containment system that allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Pine river or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.



- (F) Drywells and earth privies are not permitted unless they are authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.
- (G) An innovative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 50 feet from the river's edge on designated tributaries, except the North Branch of the Pine river from the confluence with Spalding Creek to the confluence with the East Branch of the Pine river, provided no part of the system is in a wetland or the 100-year floodplain.
- (H) Disposal of sludge from any wastewater treatment system is prohibited in the Natural River District.
- (viii) Water supply wells serving exempt, principal, or special uses if the well is landward of the native vegetation buffer described in R 281.104.
- (iv) Mining and extracting industries, if all land disturbance, structures, and other activities related to the industry are located more than 300 feet from the ordinary high watermark.
- (x) Land divisions, if the minimum standards specified in R 281.104 are met. A zoning permit, special use permit or variance will not be granted for any activity on a parcel that is created after the effective date of these rules if the new parcel does not meet R 281.104. No new parcel will be created that would require reaching the only buildable area by constructing a road/stream crossing.
- (xi) Home occupations and home-based occupations, subject to R 281.104.
- (xii) Land alteration, such as grading, dredging, and filling of the land surface, except within the native vegetation buffer, on the face or crest of a bluff, or in a wetland or floodplain as defined in R 281.101. Draining wetlands is prohibited. Ponds may be constructed if the pond is not constructed in a wetland or the 100-year floodplain, the pond meets the building setback established for the area, spoils are placed in a non-wetland, non-floodplain area landward of the native vegetation buffer, and the pond is not connected to the river by any surface or subsurface drainage system.
- (xiii) Bridges, including any structure of any span length designed to provide a pedestrian or vehicle stream crossing, subject to all the following standards:
  - (A) All existing bridges that are destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On mainstream segments, destroyed pedestrian bridges may not be replaced with vehicle bridges. Destroyed bridges shall be replaced within 18 months of destruction or the replacement bridge shall be considered to be a new bridge and shall be subject to new bridge standards.
  - (B) New bridges are not permitted on any parcel that is created after the effective date of these rules.
  - (C) New bridges of any type are prohibited on mainstream segments.
  - (D) All replacement bridges on mainstream segments shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high water mark and "low steel" (the bottom of the bridge deck and/or deck supports other than abutments), and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted.
  - (E) New pedestrian bridges are permitted on all tributaries provided the lands connected by a new bridge were, at the time of adoption of these rules, and continue to be, collectively owned by 1 person.
  - (F) New bridges linking properties in separate ownership shall not be permitted except in areas where construction of such a bridge to access a permitted building site will result in less resource damage than construction of another type of permitted access. The exception shall only apply to lots that were created before the effective date of these rules.
  - (G) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.
  - (H) Permanent new bridges on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box, or arch culverts are not permitted, and, in the case of pedestrian

bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.

(I) Permanent bridges replacing bridges that have natural bottoms on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted, and in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.

(J) Permanent bridges replacing bridges without natural bottoms on tributaries must span the bankfull channel, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, including dirt bikes and ATVs are excluded.

(K) Temporary vehicle bridges on tributaries for the purpose of access for timber harvest may be permitted provided they are constructed in a manner that minimizes disruption of the stream and are removed immediately after harvesting activities. Disturbed areas in the native vegetation buffer shall be revegetated, any fill placed shall be removed, and the land shall be returned to its original grade as soon as possible after removal of the bridge. Proper erosion/sedimentation control methods shall be used during placement and use of the bridge.

(L) New permanent vehicle bridges on tributaries may be allowed upon receipt of a special use permit.

(xiv) Forest management activities within the native vegetation buffer, subject to the provisions of R 281.104.

(xv) Boardwalks that meet the setback requirements of subrule (2)(C) of this rule and boardwalks associated with a footpath to the river's edge subject to of R 281.104(6).

(c) The Pine river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. To ensure that such uses do not contravene the goals and objectives of the Pine river natural river plan and these rules, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

(i) Detached rental cabins, if all of the following provisions are complied with:

(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of frontage. Clustering of rental cabins is permitted and encouraged; however, there shall not be more than 1 cabin per 200 feet of river frontage. For each cabin placed in a cluster-type setting, a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal parcel as described R 281.104 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal lot or parcel as described in R 281.104 will be sold, donated or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

(B) The size of each cabin shall not exceed 900 square feet and 1 story in height. The cabin shall not contain sleeping accommodations for more than 8 people.

(C) Each cabin shall be set back a minimum of 200 feet from the ordinary high watermark. All associated buildings and structures shall be located outside of the Natural River District.

(D) Temporary recreational facilities, including tents, camper trailers, and recreational vehicles shall be located outside of the Natural River District.

(E) Each cabin shall be a minimum of 75 feet from the property line of adjacent riverfront properties.

(F) Establishment of vegetative buffers along side or back lot lines may be required for rental cabins that are adjacent to existing residential uses. Buffers shall consist of plant material that is indigenous to the area in a strip at least 20 feet wide composed of deciduous trees interspersed with coniferous trees to

be spaced not more than 10 feet apart. Deciduous trees shall be a minimum of 8 feet in height and coniferous trees a minimum of 5 feet in height at the time of planting. The buffer shall also include dense shrubs placed not less than 5 feet apart having a minimum of 3 feet in height when planted. The entire buffer shall be maintained in at least as healthy a condition as when planted.

(G) Docks may be constructed for the private use of occupants of the rental cabins. Permanent and seasonal docks shall comply with the general standards for docks and all of the following provisions:

(1) Docks shall be not larger than 48 square feet, with not more than 4 feet of the dock extending into the water.

(2) Docks may be constructed at the rate of 1 dock per 1000 feet of frontage. If the property in question contains less than 1000 feet of frontage, 1 dock will be permitted

(3) Docks shall be constructed of natural materials that blend with the natural surroundings.

(4) Access to a dock or docks shall be along a single designated footpath not more than 4 feet wide to minimize disruption of the native vegetation buffer.

(5) Any steps or stairs necessary on the stream bank to access the dock shall be constructed without cutting into the ground surface, unless site and soil conditions indicate that a recessed stairway will better meet the goals and objectives of designation.

(ii) Campgrounds, including those with provisions for tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, impervious pads, and utility hookups, if all of the following provisions are complied with:

(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.

(B) Commercial buildings associated with the campground are prohibited in the Natural River District.

(C) All permanent structures shall be at least 200 feet from the river's edge.

(D) Campsites are permitted at a density of not more than 4 sites per acre of land that is located in the Natural River District and landward of the native vegetation buffer.

(E) A 100 foot-wide native vegetation buffer along the river shall be maintained.

(F) Campsites that accommodate wheeled motor vehicles shall be at least 200 feet from the river's edge.

(G) Walk-in campsites shall be landward of the native vegetation buffer.

(H) Docks may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.

(I) No motorized vehicle access to the river is permitted.

(J) Launching or retrieval of commercial watercraft, other than by registered campers on-site, is prohibited at any newly developed campground.

(iii) Permanent vehicle bridges on tributaries subject to the provisions of R 281.107.

### **R 281.108 Application and approval; procedures and standards; principal uses and special uses.**

Rule 8. (1) An application for a principal use shall be submitted and processed pursuant to all the following procedures:

(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) A site plan that meets the requirements of R 281.106.

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.

(b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.

(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.

(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.

(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. An application for an extension shall be made before the permit expires. Any subsequent extensions for a variance approval shall have the written approval of the zoning review board.

(2) An application for a special use permit shall be submitted and processed pursuant to the following procedures:

(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Eight copies of a site plan that meet the requirements of R 281.106.

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.

(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property that is being considered for a special use.

(b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.

(c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:

(i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.

(ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.

(iii) Notice shall also be sent to all of the following entities:

(A) The natural rivers unit of the Michigan department of natural resources.

(B) Local tax assessing officials.

(C) Township and county clerks.

(D) Local building inspectors.

(E) State, district, or county health department, when applicable.

(d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.107, are satisfied:

(i) That the purposes specified in R 281.102 are accomplished.

(ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.

(iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.

- (e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.
- (f) The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be required to approve a special use.
- (g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, then the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.
- (h) If the zoning review board determines that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, then the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.
- (i) An application for a special use that has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which might result in favorable action upon resubmission.
- (j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.
- (k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

#### **R 281.109 Variances and variance hearings.**

Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, in certain instances, by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in complying with these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.

(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in complying with these rules as specified in subrule (1) of this rule:

- (a) How substantial the variance is in relation to the zoning requirements.
- (b) Whether a substantial change will be effected in the character of the area or a substantial detriment created for adjoining properties.
- (c) Whether the difficulty can be overcome by some feasible method other than a variance.
- (d) Whether, in view of the manner in which the difficulty arose, the interests of justice will be served by allowing the variance.
- (e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.
- (f) Whether the variance may result in a material adverse effect on the environment.

(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances are defined as reductions in setbacks for uses on any lawful lot that are not

more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures, including decks, porches, and steps.

(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:

- (a) The property cannot be used in a manner that is consistent with existing zoning.
- (b) The hardship results from the application of these rules to the applicant's property.
- (c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.

(d) The hardship is not the result of the applicant's own actions.

(e) The hardship is peculiar to the applicant's own property.

(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.

(6) For a land use variance, the zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:

(a) The use will be consistent with and in accordance with the general objectives of the Pine river natural river plan.

(b) The use will be designed, constructed, operated, and maintained consistent with and appropriate in appearance with the existing or intended character of the natural river district and the use will not change the essential character of the natural river district.

(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or the persons or agencies that are responsible for the establishment of the proposed use may adequately provide essential services.

(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.

(e) The use will be consistent with the intent and purposes of these rules.

(f) The use or the structures to be used will not cause an overcrowding of the land or an undue concentration of population that may result in degradation to the river and district.

(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow the procedure established for special use applications by R 281.108. A decision shall be made within 30 days after the final hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, findings, and actions taken on each matter heard by it, including the final order. Reasons for the decision shall be in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of at least 4 of the 7 voting members of the zoning review board is required to effect a dimensional variance in these rules. The concurring vote of at least 5 of the 7 voting

members of the zoning review board is required to grant a land use variance in these rules. If the required concurring vote for approval of a variance is not achieved, the variance is denied.

(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.

(9) A variance shall create a nonconforming land use, lot, or structure that is subject to the provisions of R 281.110 which regulates continued use.

(10) The zoning review board or the zoning administrator may impose conditions on an applicant before granting a variance. Such conditions shall be in writing. The zoning permit issued for the project for which the variance was approved is not valid until the applicant accepts the conditions in writing.

(11) An application for a variance that has been denied by the zoning review board or zoning administrator shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which might result in favorable action upon resubmission.

### **R 281.110 Nonconforming uses, lots, and structures.**

Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted pursuant to the terms of these rules. Legal nonconforming uses, structures, or lots shall continue until they are brought into conformity and, in certain instances, permit the limited expansion of certain legal nonconforming uses and structures.

(2) If the combination of 2 or more contiguous nonconforming vacant lots owned by the same person results in an increase in conformance with the dimensional requirements of these rules, then the lots shall be combined for use, unless the lots are within a plat established before the adoption of these rules wherein more than 50% of the platted lots contain a single-family dwelling.

(3) An application for a zoning permit for a principal use on a legal nonconforming lot of record shall be approved by the zoning administrator if both of the following provisions are complied with:

(a) The principal use complies with these rules, except the minimum lot width and area requirements.

(b) The applicant or owner of the subject lot does not own other contiguous properties when, if combined with the nonconforming lot, would result in increasing the conformity of the lot.

(4) An application for a zoning permit for a principal use on a legal nonconforming lot of record that is not in compliance with subrule (3)(a) and (b) of this rule shall be treated as a variance pursuant to R 281.109.

(5) Where, on the effective date of these rules, a lawful use of land exists that is made unlawful pursuant to these rules the use may be continued if it remains otherwise lawful, subject to all of the following provisions:

(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of these rules without a land use variance. Enlarging, increasing or extending a lawful, nonconforming use shall be treated as a variance pursuant to R 281.109.

(b) The nonconforming use and the structures associated with the nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by such use on the effective date of these rules unless the move would result in a greater degree of conformity with these rules.

(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.

(6) Where a lawful structure exists on the effective date of these rules that is made unlawful pursuant to these rules, the structure may be continued if it remains lawful, subject to all of the following provisions:

(a) The structure may not be expanded or altered in a way that increases its nonconformity, such as expanding toward the river's edge or increasing the height above the maximum height standard. However, the ground floor area, for example, "footprint," of any legal nonconforming single-family dwelling may be increased by up to 50% (or up to 75% if the expansion requires a minor variance) of the existing enclosed ground floor living area cumulative from the date of nonconformance, or to the minimum extent necessary to comply with local standards for minimum legal floor area for dwellings, whichever is greater, through alterations, repairs, and additions, if the increase does not increase the nonconformity of the dwelling. Any alteration of a legal nonconforming dwelling must, to the extent possible, be in compliance with all setback and other building requirements. Any expansion of a lawful, nonconforming dwelling, including addition of additional stories, shall be treated as a variance pursuant to R 281.109 unless it meets the criteria in (10)(6)(b) of this rule.

(b) Expansion of a nonconforming single-family dwelling may be permitted by the zoning administrator, without the need for a variance, if either of the following applies:

(i) Part of the expansion is located within the native vegetation buffer, expansion of the dwelling is to the landward side of the existing structure and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.

(ii) The expansion is located completely outside the native vegetation buffer, expansion of the dwelling is not closer to the river than the closest point of the existing dwelling and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.

(c) If any legal nonconforming structure is destroyed by any means, except willful destruction by the property owner or his or her agent, to an extent that is more than 50% of twice its assessed evaluation, then restoration of the structure may be permitted by the zoning administrator, without the need for a variance, if all of the following conditions exist:

(i) The structure is not located on land subject to flooding (the 100-year floodplain).

(ii) The presence of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.

(iii) The restored structure occupies the same enclosed ground floor area, for example, "footprint," and contains the same square footage as the original structure.

(iv) Application for permission to restore a damaged structure is made within 12 months of the time of damage. An extension may be granted if the property is held in probate, an insurance settlement related to the damage is in dispute or a criminal investigation related to the damage is in progress.

(v) If any of the provisions of subdivision (c)(i) to (iv) of this subrule cannot be met, restoration of a destroyed legal nonconforming structure shall require a variance.

(d) If a structure is willfully destroyed by the property owner or his or her agent to an extent that is more than 50% of twice its assessed evaluation, the property owner shall meet the building setback requirement to the greatest extent possible when constructing any new or replacement structure.

(e) If a variance is granted for a new single-family dwelling to replace a single-family dwelling, the new dwelling shall not occupy more than 150% of the enclosed ground floor area of the destroyed dwelling, except that if a minor variance is granted for a new single-family dwelling to replace a single-family dwelling, the new dwelling shall not occupy more than 175% of the enclosed ground floor area of the destroyed dwelling.



(f) A variance shall not be granted for a new nonconforming structure to replace a destroyed nonconforming structure that would result in the new structure being more nonconforming than the destroyed structure.

(g) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure on the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules. Moving a legal nonconforming structure requires a zoning permit and may require a variance.

**R281.111 Zoning administrator and zoning review board; appointment; duties.**

Rule 11. (1) The director shall appoint a zoning administrator and zoning review board to act as his or her agents to enforce these rules.

(2) The zoning administrator shall do all of the following:

(a) Provide necessary forms and applications and receive and process applications.

(b) Determine and verify zoning compliance when the applicant's plans are found to conform to these rules.

(c) Conduct site inspections to ensure compliance with these rules.

(d) Pursue resolution of violations of the provisions of these rules.

(e) Issue any authorized permits and certificates of zoning compliance.

(f) Identify and record information relative to nonconformities.

(g) Maintain files of applications, permits, and other relevant documents.

(h) Schedule meetings and hearings for, and provide assistance to, the zoning review board.

(i) Act on minor variances as permitted by provisions of R 281.109.

(3) The zoning review board shall do all of the following:

(a) Adopt rules of procedure that govern the transaction of its business.

(b) Act upon requests for special use permits.

(c) Act on certain dimensional and land use variances pursuant to R 281.109.

(d) Act on the interpretation of the official zoning map pursuant R 281.105.

(4) In establishing the zoning review board, the director shall cooperate with, and seek the advice of, all of the following entities:

a) Affected townships and counties.

b) Conservation districts.

c) Property owners' associations.

d) Other interested local organizations and citizens.

(5) The director shall request that each affected township appoint 1 person to represent its interests on matters within its jurisdiction. The director shall request that each affected county appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The director shall request that each affected conservation district appoint 1 person to represent its interests on matters within its jurisdiction. County, township, and conservation district representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or conservation districts do not appoint an individual to represent them within 60 days from the request by the director, the director may make appointments on his or her own motion. The director shall appoint 1 local DNR representative and 2 citizens representatives who shall vote on all matters before the board.

(6) In accordance with subrule (5) of this rule, the director shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The director shall appoint alternates for the local

DNR representative and 2 citizens representatives. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.

(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.

**R 281.112 Appeals; contested cases.**

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of 1969 PA 306, MCL 24.201 et seq. and R299.3071 to R 299.3081.

**R 281.113 Violations; effect; remedies.**

Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates these rules. The director shall not waive any of his or her rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to these rules is invalid from the date of the authorization.

(2) In addition to all other remedies, the director may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.

**R281.114 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.**

Rule 14. (1) The director may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of 1969 PA 306, MCL 24.271 to 24.287, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.102.

(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:

- a) The county register of deeds.
- b) Township and county clerks.
- c) The local building inspector.
- d) Local soil erosion and sedimentation control enforcement agencies.
- e) The conservation district.
- f) County drain commissioner.
- g) Zoning review board members.

(3) A local zoning ordinance that meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and either 1943 PA 184, MCL 125.271, or 1943 PA 183, MCL 125.101, whichever is applicable, shall take precedence over these rules. If a local zoning ordinance does not meet all of the requirements

of Natural Rivers Part 305 of 1994 PA 451, or if the local ordinance becomes inapplicable to the land area encompassed by the Pine river natural river district through court action or for any other reason, these rules shall apply. A local unit of government may, at any time, request the assistance of the department of natural resources in developing an ordinance that meets the requirements of Natural Rivers Part 305 of 1994 PA 451. The director shall determine if a local ordinance meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and shall notify the local unit of government of his or her decision in writing. If the director withdraws his or her approval of a local zoning ordinance, these rules shall apply.

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**ADMINISTRATIVE RULES**

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**ORR # 2004-010**

**DEPARTMENT OF NATURAL RESOURCES**

**FISHERIES DIVISION**

**UPPER MANISTEE RIVER NATURAL RIVER ZONING**

Filed with the Secretary of State on December 20, 2004.  
These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of natural resources by section 30512 of Part 305 of 1994 PA 451, MCL 324.30512, and Executive Reorganization Order No. 1991-22, MCL 299.13.)

R 281.171, R 281.172, R 281.173, R 281.174, R 281.175, R 281.176, R 281.177, R 281.178, R 281.179, R 281.180, R 281.181, R 281.182, R 281.183, R 281.184, of the Michigan Administrative Code are added as follows:

**R 281.171 Definitions.**

Rule 1. As used in these rules:

- (a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.
- (b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:
  - (i) Garages.
  - (ii) Residential storage sheds.
  - (iii) Barns and other agricultural storage and livestock structures.
  - (iv) Pump houses.
  - (v) Private access roads.
  - (vi) Electrical service lines.
- (c) "Bluff" means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area at least 100 feet wide (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet.
- (d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer 1972 PA 230, MCL 125.1501 and known as the state construction code act of 1972.
- (e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as required by 1972 PA 230, MCL 125.1501
- (f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.
- (g) "Commission" means the natural resources commission.

- (h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.
- (i) "Director" means the director of the department of natural resources.
- (j) "Enclosed ground floor living area" means the area of the ground covered by a dwelling, including enclosed porches and attached garages, but not including open porches, decks, or patios.
- (k) "Family" means either of the following:
  - (i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.
  - (ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.
- (l) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, serve as an aid to the infiltration of surface runoff, and provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no mowing or removal of trees, shrubs or other vegetation.
- (m) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (t) of this rule.
- (n) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge a 100-year flood.
- (o) "Front" means that segment of a lot or parcel closest to or abutting the river's edge of the main stream or tributary.
- (p) "Front yard" means setback as provided for in R 281.177.
- (q) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home by residents of the dwelling as a use which is clearly incidental and secondary to the use of the home as a dwelling place.
- (r) "Home-based occupation" means a gainful occupation where business is conducted off-site but equipment such as logging trucks or well drilling rigs are stored at the home site.
- (s) "Impervious surface" means a surface, including paved and unpaved driveways, decks, rooftops, roads, patios, swimming pools and parking lots that does not allow storm water to infiltrate into the ground.
- (t) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.
- (u) "Lot" means a continuous area or acreage of land that can be described for purposes of transfer, sale, lease, rental, or other conveyance.
- (v) "Lot area" means the area inside the lot lines.
- (w) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.
- (x) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by

metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.

(y) "Lot, vacant" means a lot that does not contain a single family dwelling.

(z) "Natural river district" means the Upper Manistee river natural river district as described in R 281.175.

(aa) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

(bb) "Rear yard" means that yard opposite the front yard.

(cc) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.

(dd) "River's edge" means the ordinary high watermark as used in Part 301 of 1994 PA 451, and as defined in subdivision (aa) of this rule.

(ee) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.

(ff) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains kitchen and bathroom facilities.

(gg) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Part 91 of 1994 PA 451, MCL 282.101.

(hh) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas greater than 24 inches in diameter and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are on site fewer than 30 days per year and if they are located landward of the native vegetation buffer or if the facilities are located on a campsite within a campground that is licensed pursuant to 1978 PA 368, MCL 333.1101, if both the individual campsite and the campground were established before the effective date of these rules.

(ii) "Wetland" means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in Part 303 of 1994 PA 451, MCL 282.101.

(jj) "Zoning administrator" means the administrator of these rules who is appointed by the director.

(kk) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with these rules.

(ll) "Zoning review board" means a group of 7 people which is appointed by the director to act upon requests as provided for by these rules.

**R 281.172 Purpose; intent; scope.**

Rule 2. (1) The director, on his or her own motion, to implement the intent of Natural Rivers Part 305 of 1994 PA 451, and in the absence of local zoning to protect the Upper Manistee river, a designated natural river, promulgates these rules for the following purposes:

(a) To promote the public health, safety, and general welfare; to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district; and to preserve the values of the natural river district for the benefit of present and future generations.

- (b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Upper Manistee river and adjoining land.
- (c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and which may reduce the capacity of the floodway of the river to withstand flooding conditions.
- (d) To provide for uses that complement the natural characteristics of the natural river system.
- (e) To protect individuals from investing funds in structures that are proposed for location on lands that are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.
- (f) To achieve the goals and objectives of the Upper Manistee river natural river plan.
- (2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.
- (3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Natural Rivers Part 305 of 1994 PA 451, and the rules promulgated thereunder, the provisions of Natural Rivers Part 305 of 1994 PA 451 and the rules promulgated thereunder shall apply.

**R 281.173 Construction of language: severability.**

Rule 3. (1) All of the following rules of construction apply to the text of these rules:

- (a) A "building" or "structure" includes any part thereof.
- (b) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (c) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (d) The terms "lot" and "parcel" have the same meaning.
- (e) Terms not defined in these rules shall have the meanings customarily assigned to them.
- (2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.

**R 281.174 Lot size and area; subdivision of land; home and home-based occupations; native vegetation buffer; signs; docks; height of structures; river access stairways; dams; impervious surfaces.**

Rule 4. (1) Unless otherwise provided for in these rules, a lot created after the effective date of these rules shall meet all of the following standards on at least 1 side of the stream that is accessible by a public road or legal easement:

- (a) Have at least 200 feet of river frontage (unless a riverfront "common area" subject to a conservation easement is established, or the parent parcel does not have river frontage, in which case this dimension shall be measured at the point of the parcel closest to the river) and be at least 200 feet wide at the minimum building setback line.
- (b) Contain at least 1/2 acre of existing contiguous upland buildable area (non-wetland, non-floodplain) landward of the minimum building setback line.

- (c) Contain at least 80,000 square feet of area within the Natural River District (any “common area” created or any bottomlands shall not be used in any calculations related to minimum parcel area). If the parent parcel does not have river frontage, and the front line of any newly created parcel is greater than 100 feet from the river’s edge at all points, this subdivision does not apply, and the minimum parcel width will be measured at the front lot line.
- (d) Have sufficient depth to accommodate the required building setbacks pursuant to R 281.177.
- (2) A lot that exists on the effective date of this rule shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.
- (3) Proposed lots which have preliminary plat approval pursuant to 1967 PA 288, MCL 560.101, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements in R 281.179 and R 281.180.
- (4) Lots of record which are created before the effective date of these rules, and which do not possess sufficient land area or lot width may be used for the purposes described in these rules, subject to the requirements in R 281.179 and R 281.180.
- (5) Home occupations and home-based occupations shall conform to all of the following requirements:
  - (a) The use of the dwelling unit, or related structure, for a home occupation or home-based occupation shall be clearly incidental and subordinate to its use for residential purposes.
  - (b) Equipment or a process shall not be used in a home occupation or home-based occupation if it creates noise, vibration, fumes, odors, or electrical interference that is detectable to the normal senses off the premises.
- (6) Within the natural river district, a native vegetation buffer that includes the river and all lands within 75 feet of the ordinary high watermark shall be maintained on each side of the Upper Manistee river mainstream and all designated tributaries. Trees and shrubs may be pruned over not more than a 50-foot width for a filtered view of the river, but clear cutting in the native vegetation buffer is prohibited. The native vegetation buffer is also subject to all of the following provisions:
  - (a) Unsafe trees and noxious plants and shrubs, such as poison ivy and poison sumac, may be removed.
  - (b) The selected removal or trimming of trees for forest management practices or disease and insect control, and clearing of vegetation to the minimum width required for public utility primary electric distribution lines and service lines for permitted uses, is permitted upon approval of the zoning administrator in consultation with local Conservation District staff, if the activity is in keeping with the goals and objectives of the Natural River Plan.
  - (c) Camping other than low-impact tent camping is not permitted in the native vegetation buffer.
  - (d) Mowing is prohibited in the native vegetation buffer except in areas that had been maintained in a mowed condition prior to adoption of these rules or to establish a footpath to the river not to exceed 4 feet wide.
  - (e) In the Manistee River mainstream vegetation may be selectively pruned to allow for safe navigation and to alleviate flooding that threatens a dwelling. This may include pruning of a maximum 8-foot wide section of vegetation. Portions of trees, logs, and other natural material imbedded in the stream channel may not be disturbed.
  - (f) A boardwalk constructed in conjunction with the footpath described in subdivision (d) of this subrule is permitted upon approval of the zoning administrator if it is placed only in areas that are generally too wet to be traversed without significant disturbance of the soils, the boardwalk and supports are constructed of wood, the boardwalk is not more than 3 feet wide and does not include railings, and the top of the boardwalk is not more than 12 inches above grade.
  - (g) All islands in all stream segments are subject to the native vegetation buffer standards.
  - (h) A wider native vegetation buffer may be required for certain commercial uses.



- (7) Signs for identification, direction, resource information, regulation of use and those related to permitted uses are allowed. Signs for the sale of products or services are prohibited, unless related to a permitted use, located on the site of the permitted use, not located in the native vegetation buffer and not visible from the river. Illuminated signs are prohibited. Signs may be not more than 2 square feet in area. Exceptions include 1 real estate sign not more than 4 square feet outside the native vegetation buffer, and public agencies' signs not larger than 10 square feet, of rustic design and not attached to vegetation. Some public agency signs may need to be larger to warn of impending danger or for interpretative or historic reasons.
- (8) Private boat docks shall be in compliance with all of the following requirements:
- (a) Docks shall not be more than 48 square feet in area, with not more than 4 feet of the dock extending over the edge of the river.
  - (b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.
  - (c) Unless otherwise provided for in these rules, only 1 dock shall be constructed per lot.
- (9) Unless otherwise provided in these rules, a structure shall not be more than 2 1/2 stories tall, not including a basement, and not more than 35 feet in height measured from the original surface elevation.
- (10) Private river access stairways are permitted upon approval of the zoning administrator if in compliance with all of the following requirements:
- (a) There is no other safe, feasible access to the river without a stairway.
  - (b) The stairway is low-profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface unless site and soil conditions dictate that a recessed stairway is more appropriate.
  - (c) There are no landings associated with the stairway unless required by building codes, in which case the landings shall be of the minimum number and size required by building codes.
  - (d) Not more than 1 handrail is associated with the stairway.
  - (e) Only 1 river access stairway is permitted per parcel.
  - (f) The stairway is constructed using natural materials and is located and maintained to blend with the natural surroundings.
- (11) Construction of new dams is prohibited. Reconstruction of a failed dam is permitted under any of the following conditions:
- (a) Reconstruction of a dam destroyed by a catastrophic event such as flood may be reconstructed.
  - (b) Reconstruction of a dam that failed due to lack of maintenance or other negligence by the owner or operator is prohibited.
  - (c) Reconstruction of a dam that failed due to a catastrophic event shall comply with construction standards in effect at the time of application for replacement.
  - (d) Application for reconstruction shall be received within 1 year of destruction.
  - (e) A reconstructed dam shall be rebuilt with a height not greater than the original dam height.
  - (f) A bottom discharge and fish passage facilities shall be provided for a reconstructed dam where appropriate.
  - (g) A request for replacement of a dam destroyed by a catastrophic event shall be handled as a variance request for reconstruction of a destroyed, non-conforming structure.
- (12) The maximum percentage of impervious surface permitted on a lot shall be as follows:
- (a) For lots with less than 10,000 square feet of area, not more than 35% of the land surface may be covered by impervious surfaces.
  - (b) For lots with between 10,000 square feet and 40,000 square feet of area, not more than 25% of the land surface may be covered by impervious surfaces.
  - (c) For lots with between 40,001 square feet and 80,000 square feet of area, not more than 20% of the land surface may be covered by impervious surfaces.

(d) For lots greater than 80,000 square feet of area, not more than 10% of the land surface may be covered by impervious surfaces.

**R 281.175 Boundaries; interpretation of boundaries; filing of zoning map.**

Rule 5. (1) The boundaries of the Upper Manistee river natural river district shall be as described in these rules and as depicted on the certified Upper Manistee river natural river zoning map. The Upper Manistee river natural river zoning district comprises an area that is described as follows:

- (a) The Manistee river mainstream from its sources in Sections 1 and 12 of Mancelona Township, T29N, R5W to the Wexford/Missaukee county line.
- (b) Frenchman's Creek from the Lake Elizabeth Dam in section 30 of Hayes Twp., T29N, R4W to its confluence with the Manistee River.
- (c) Lost Lake Outlet from the outfall of Lost Lake in Section 6 of Frederic Township, T28N, R4W to its confluence with the Manistee River.
- (d) An unnamed stream from its source in Section 13 of Blue Lake Township, T28N, R5W to its confluence with the Manistee River.
- (e) Goose Creek from Cameron Bridge Road in section 27 of Blue Lake Twp., T28N, R5W to its confluence with the Manistee River.
- (f) Portage Creek from the control structure near the outfall of Lake Margrethe, section 8 of Grayling Twp., T26N, R4W to its confluence with the Manistee River, including all braided channels.
- (g) All perennial tributaries to Portage Creek from their sources to their confluence with Portage Creek.
- (h) Clear Creek from its source at Boiling Springs in section 28 of Bear Lake Twp., T26N, R5W to its confluence with the Manistee River.
- (i) Black Creek from the outfall of South Black Lake in section 21 of Bear Lake Twp., T27N, R5W to its confluence with the Manistee River, including all braided channels.
- (j) All perennial tributaries to Black Creek from their sources to their confluence with Black Creek.
- (k) Dempsey Creek from its source in section 19 of Bear Lake Twp., T26N, R5W to its confluence with the Manistee River.
- (l) Big Devil Creek from its source in Section 18 of Garfield Township, T25N, R5W to its confluence with the Manistee River.
- (m) Big Cannon Creek from its source in section 5 of Norwich Twp., T24N, R5W to its confluence with the Manistee River.
- (n) The North Branch of the Manistee River from County Road 612 in section 3 of Excelsior Twp., T27N, R6W to its confluence with the Manistee River.
- (o) An unnamed stream from Tower Road in section 25 of Coldsprings Twp., T28N, R6W to its confluence with the North Branch of the Manistee River.
- (p) Morrison Creek from its source in section 28 of Excelsior Township, T27N, R6W to its confluence with the North Branch of the Manistee River.
- (q) Collar Creek from its source in section 33 of Excelsior Township, T27N, R6W to its confluence with Morrison Creek.
- (r) An unnamed stream from its sources in section 26 of Excelsior Township, T27N, R6W to its confluence with Morrison Creek.
- (s) All other perennial tributaries to the North Branch of the Manistee River from their sources to their confluence with the North Branch of the Manistee River.
- (t) Willow Creek from its source in section 14 of Orange Twp., T26N, R7W to its confluence with the Manistee River.
- (u) Pierson Creek from its source in section 12 of Orange Township, T26N, R7W to its confluence with Willow Creek.

- (v) Maple Creek from its source in section 22 of Orange Twp., T26N, R7W to its confluence with the Manistee River.
- (w) Little Cannon Creek from multiple sources in sections 29, 31 and 32 of Garfield Twp., T25N, R6W to its confluence with the Manistee River.
- (x) Silver Creek from its source in section 1 of Pioneer Twp, T24N, R7W to its confluence with Little Cannon Creek.
- (y) Waterhole Creek and all tributaries from their multiple sources in Garfield Township, T25N, R7W to the confluence with the Manistee River.
- (z) Babcock Creek from its sources in section 33 of Garfield Township, T25N, R 7W to its confluence with the Manistee River.
- (aa) Filer Creek from its source in Section 4 of Pioneer Township, T24N, R7W to its confluence with the Manistee River.
- (bb) Nelson Creek from its sources in Section 30 of Garfield Township, T25N, R7W to its confluence with the Manistee River.
- (cc) Spring Creek from its sources in section 22 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.
- (dd) Bourne Creek from its sources in section 29 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.
- (ee) Ham Creek from its source in Section 24 of Bloomfield Twp., T24N, R8W to its confluence with the Manistee River, including two tributaries with sources in Sections 3 and 9.
- (ff) Gravy Creek from its source in section 5 of Bloomfield Twp., T24N, R8W to its confluence with the Manistee River.
- (gg) Haynes Creek from its source in section 31 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.
- (hh) Hopkins Creek from its source in Section 17 of Forest Twp., T23N, R7W to its confluence with the Manistee River.
- (ii) Fisher Creek (a.k.a. “Hopkins Creek” on the USGS topographic map) from its source in section 31 of Springfield Twp., T25N, R8W to its confluence with the Manistee River.
- (jj) All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (a) to (ii) of this subrule.
- (kk) The lands lying within 400 feet of the river's edge that are enumerated in subdivisions (a) to (jj) of this subrule.
- (2) If uncertainty exists with respect to the boundaries of the district as shown on the zoning map, then all of the following provisions shall apply:
  - (a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.
  - (b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.
  - (c) Boundaries that are indicated as approximately following city, village, township, or county boundaries lines shall be construed as following the city, village, township, or county boundary lines.
  - (d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
  - (e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines. Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.

- (f) Boundaries that are indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (g) If physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, then the zoning review board shall interpret the district boundaries.
- (h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, then the district boundaries extend to the center of any public right-of-way.
- (3) Certified copies of the Upper Manistee River natural river zoning map shall be filed with all of the following entities:
  - (a) The state tax commission.
  - (b) Local tax assessing officers.
  - (c) Township and county clerks.
  - (d) County drain commissioners.
  - (e) Local building department.
  - (f) The natural rivers unit of the Michigan department of natural resources.

**R 281.176 Zoning permits; site plans; certificates of zoning compliance.**

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.177. Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, may require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:

- (a) A site plan drawn to scale, with the scale indicated.
- (b) Property dimensions, including river frontage.
- (c) Size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.
- (d) Existing vegetation, including the location and type.
- (e) Adjacent streets and highways.
- (f) Parking areas.
- (g) Cross section drawing showing height of buildings above water level and bluff heights.
- (h) Entrances to public streets.
- (i) A description of the building design, including proposed construction materials.
- (j) Drainage facilities.
- (k) The location and description of the method to dispose of sanitary wastes.
- (l) Proposed landscaping.
- (m) The location of footpaths.
- (n) Signs proposed, including the size, location, and material.

- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.
- (r) Any additional information required by the zoning administrator or zoning review board to carry out the administrator's or board's duties. Examples of such information include the following:
  - (i) Soil types.
  - (ii) Topography.
  - (iii) Building elevations.
  - (iv) Site photographs.
  - (v) Anticipated traffic volumes.
  - (vi) Traffic circulation patterns.
  - (vii) Other pertinent site information.
- (3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes or local zoning permits.

**R 281.177 Land use and development standards.**

Rule 7. (1) Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

- (a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:
  - (i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.
  - (ii) Reforestation and other accepted forest management practices that do not involve permanent structures and that are landward of the native vegetation buffer.
  - (iii) Agricultural activities, such as plowing, disking and planting of crops, including general and specialized farming such as Christmas tree farms, provided that all new activities occur landward of the native vegetation buffer and provided such uses will not significantly contribute to stream degradation. Construction of any residential and farm-related structures and appurtenances are classified as principal uses (see subrule (b) of this rule) and are subject to zoning permit requirements. New aquaculture facilities and concentrated animal feeding operations, and expansion of existing aquaculture facilities and concentrated animal feeding operations, are not permitted within the Natural River District without a land use variance. Resumption of prior agricultural uses that were located within the native vegetation buffer but have been discontinued, such as crop fields that are rotated, may resume if 1 of the following criteria are met:
    - (A) The cessation of use was within 10 years of resumption of use.
    - (B) The cessation of use was due to implementation of a management plan written prior to adoption of these rules.
    - (C) The cessation of use was the result of written agreements with a governmental agency or agencies entered into prior to adoption of these rules.

- (D) The cessation of use was the result of written agreements with a governmental agency or agencies entered into after adoption of these rules or ordinances implementing this plan, where the term of cessation of use specified in the agreement is for 10 years or less.
- (E) The cessation of use was required or imposed by a governmental agency or agencies.
- (iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.
- (v) The off-road operation of emergency and public utility maintenance vehicles, and the operation of motorized or non-motorized wheelchairs by persons with disabilities on footpaths, boardwalks, or other designated trails. Other motorized vehicles may not be operated off the road in the native vegetation buffer as specified in R 281.174.
- (vi) Cutting of low growing vegetation in the native vegetation buffer to create a private footpath of not more than 4 feet in width leading to a single point on the river's edge. A boardwalk or other above grade walkway is considered a structure and requires a zoning permit.
- (vii) Signs, subject to the provisions of R 281.174.
- (viii) A replacement residential water supply well, provided the replacement well is no closer to the river's edge than the well it is replacing and is landward of the native vegetation buffer, and the replaced well is properly abandoned.
- (ix) Routine maintenance and repairs of principal uses within the existing foundation and structure, subject to the provisions of R 281.180.
- (x) Satellite dishes that are less than 24 inches in diameter and that are not located in the native vegetation buffer.
- (b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:
  - (i) Single-family dwellings, including detached long-term rental dwellings, if all of the following provisions are complied with:
    - (A) Only 1 dwelling per parcel unless 1 of the following occurs:
      - (1) The property owner develops a site plan for the parent parcel showing theoretical property lines for individual lots based on Natural River development standards, and locates any additional residences and appurtenances as if the property were divided into those separate lots.
      - (2) For each single-family dwelling placed in a cluster-type setting so that the requirements in subdivision (b)(i)(A)(1) are not met, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.174 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth, and buildable area equal to a newly created separate legal lot or parcel as described in R 281.174 shall be sold, donated or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.
    - (B) Building setback for lots shall be not less than 100 feet from the ordinary high watermark on the mainstream and other designated tributaries, except as described in subdivision (b)(i)(C) of this rule. Structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. No building shall take place on land that is subject to flooding or in any wetland area. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.
  - (C) Building setbacks in areas of concentrated development are as follows: If a vacant legal nonconforming parcel is between and adjacent to 2 parcels that contain legal single-family dwellings that do not meet the minimum building setbacks, and the adjacent legal non-conforming single-family

dwellings are within 300 feet of each other, then the minimum building setback for a new single-family dwelling on the vacant parcel is the distance from the river of the adjacent single-family dwelling that is farthest from the river's edge or the minimum required width of the native vegetation buffer, whichever is greater, provided the single-family dwelling is not placed on lands that are subject to flooding or in any wetland area. All appurtenances and accessory buildings shall meet the minimum required building setback described in subdivision (b)(i)(B). All structures shall be set back not less than 50 feet from the crest of a bluff on the mainstream and not less than 25 feet from the crest of a bluff on designated tributaries. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities.

- (ii) Expansion of a legal nonconforming single-family dwelling subject to the provisions of R 281.180.
- (iii) Accessory buildings and appurtenances that meet requirements of paragraph (i) of this subdivision.
- (iv) One private boat dock per parcel, subject to R 281.174.
- (v) One private river access stairway per parcel, subject to R 281.174.
- (vi) Utility lines to service private, single-family dwellings.
- (vii) Disposal fields, septic tanks, and outhouses if all of the following provisions are complied with:
  - (A) The septic tank and disposal field meet local health department standards.
  - (B) The disposal fields shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Upper Manistee River or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.
  - (C) The septic tank shall be no closer to the river than the dwelling it serves and shall not be located within the 100-year floodplain or a wetland area.
  - (D) The bottom of the disposal field shall be at least 4 feet above the seasonal high groundwater table.
  - (E) An outhouse shall be constructed using a watertight waste containment system which allows waste to be pumped and hauled to an appropriate disposal site, shall be located not less than 100 feet from the ordinary high watermark and any surface or subsurface drain that discharges into the Upper Manistee River or its designated tributaries, and shall not be located within the 100-year floodplain, a wetland area, or the native vegetation buffer.
  - (F) Drywells and earth privies are not permitted unless they are authorized by the local health department, are a minimum of 100 feet from the ordinary high water mark, and the bottom of the pit or seepage bed is at least 4 feet above the seasonal high groundwater table.
  - (G) An innovative on-site treatment system that results in a higher level of treatment than a conventional system may be located not less than 75 feet from the river's edge, provided no part of the system is in a wetland or the 100-year floodplain.
  - (H) Disposal of sludge from any wastewater treatment system is prohibited in the Natural River District.
- (viii) Water supply wells serving exempt, principal, or special uses if the well is landward of the native vegetation buffer described in R 281.174.
- (ix) Mining and extracting industries, if all land disturbance, structures, and other activities related to the industry are located more than 300 feet from the ordinary high watermark.
- (x) Land divisions, if the minimum standards specified in R 281.174 are met. A zoning permit, special use permit or variance will not be granted for any activity on a parcel that is created after the effective date of these rules if the new parcel does not meet all of the standards in R 281.174. No new parcel will be created that would require reaching the only buildable area by constructing a road/stream crossing.
- (xi) Home occupations and home-based occupations, subject to the provisions of Rule 4.
- (xii) Land alteration, such as grading, dredging, and filling of the land surface, except thin the native vegetation buffer, on the face or crest of a bluff, or in a wetland or floodplain as defined in R 281.171. Draining wetlands is prohibited. Ponds may be constructed if the pond is not constructed in a wetland

or the 100-year floodplain, the pond meets the building setback established for the area, spoils are placed in a non-wetland, non-floodplain area landward of the native vegetation buffer, and the pond is not connected to the river by any surface or subsurface drainage system.

(xiii) Bridges, including any structure of any span length designed to provide a pedestrian or vehicle stream crossing, subject to the following standards:

(A) All existing bridges that are destroyed by any means, whether on a tributary or mainstream segment, may be replaced. On mainstream segments, destroyed pedestrian bridges may not be replaced with vehicle bridges. Destroyed bridges shall be replaced within 18 months of destruction or the replacement bridge shall be considered to be a new bridge and will be subject to new bridge standards.

(B) New bridges are not permitted on any parcel that is created after the effective date of these rules.

(C) New bridges of any type are prohibited on mainstream segments.

(D) All replacement bridges on mainstream segments shall span the bankfull channel, have a minimum clearance of 5 feet between the ordinary high water mark and "low steel" (the bottom of the bridge deck and/or deck supports other than abutments), and be a structure with a natural bottom, for example, pipe, box, or arch culverts are not permitted.

(E) New pedestrian bridges are permitted on all tributaries provided the lands connected by a new bridge were, at the time of adoption of these rules, and continue to be, collectively owned by a single person.

(F) New bridges linking properties in separate ownership shall not be permitted except in areas where construction of such a bridge to access a permitted building site will result in less resource damage than construction of another type of permitted access. The exception shall only apply to lots that were created before the effective date of these rules.

(G) Only 1 bridge is permitted to access a portion of land that is otherwise inaccessible from the owner's contiguous property.

(H) Permanent new bridges on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box or arch culverts are not permitted, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.

(I) Permanent bridges replacing bridges that have natural bottoms on tributaries shall span the bankfull channel and be a structure with a natural bottom, for example, pipe, box, or arch culverts, are not permitted, and in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.

(J) Permanent bridges replacing bridges without natural bottoms on tributaries shall span the bankfull channel, and, in the case of pedestrian bridges, be constructed such that use by any motorized vehicles, such as dirt bikes and ATVs, are excluded.

(K) Temporary vehicle bridges on tributaries for the purpose of access for timber harvest may be permitted provided they are constructed in a manner that minimizes disruption of the stream and are removed immediately after harvesting activities. Disturbed areas in the native vegetation buffer shall be re-vegetated, any fill placed shall be removed and the land shall be returned to its original grade as soon as possible after removal of the bridge. Proper erosion/sedimentation control methods shall be used during placement and use of the bridge.

(L) New permanent vehicle bridges on tributaries may be allowed upon receipt of a special use permit.

(xiv) Forest management activities within the native vegetation buffer, subject to the provisions of R 281.174.

(xv) Boardwalks that meet the setback requirements of subrule (2)(C) of this rule and boardwalks associated with a footpath to the river's edge subject to R 281.174(6).

(c) The Upper Manistee River natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have



not been identified under the exempt and principal uses provisions of this rule. To ensure that such uses do not contravene the goals and objectives of the Upper Manistee River natural river plan and these rules, such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

(i) Detached rental cabins, if all of the following provisions are complied with:

(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of frontage. Clustering of rental cabins is permitted and encouraged; however, there shall not be more than 1 cabin per 200 feet of river frontage. For each cabin placed in a cluster-type setting, a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal parcel as described in R 281.174 shall be made subject to a permanent conservation easement or deed restriction that prohibits construction of any structures within that portion of the parcel, or the development rights to a portion of the parent parcel containing square footage, width, depth and buildable area equal to a newly created separate legal lot or parcel as described in R 281.174 will be sold, donated, or otherwise conveyed in perpetuity to a land conservancy, local unit of government, or the state. The agency acquiring the development rights shall agree in writing to refrain from development of the land in perpetuity.

(B) The size of each cabin shall not exceed 900 square feet and 1 story in height. The cabin shall not contain sleeping accommodations for more than 8 people.

(C) Each cabin shall be set back a minimum of 200 feet from the ordinary high watermark. All associated buildings and structures shall be located outside of the Natural River District.

(D) Temporary recreational facilities, including tents, camper trailers, and recreational vehicles shall be located outside of the Natural River District.

(E) Each cabin shall be a minimum of 75 feet from the property line of adjacent riverfront properties.

(F) Establishment of vegetative buffers along side or back lot lines may be required for rental cabins that are adjacent to existing residential uses. Buffers shall consist of plant material that is indigenous to the area in a strip at least 20 feet wide composed of deciduous trees interspersed with coniferous trees to be spaced not more than 10 feet apart. Deciduous trees shall be a minimum of 8 feet in height and coniferous trees a minimum of 5 feet in height at the time of planting. The buffer shall also include dense shrubs placed not less than 5 feet apart having a minimum of 3 feet in height when planted. The entire buffer shall be maintained in at least as healthy a condition as when planted.

(G) Docks may be constructed for the private use of occupants of the rental cabins. Permanent and seasonal docks shall comply with the general standards for docks and all of the following provisions:

(1) Docks shall be not larger than 48 square feet, with not more than 4 feet of the dock extending into the water.

(2) Docks may be constructed at the rate of 1 dock per 1000 feet of frontage. If the property in question contains less than 1000 feet of frontage, 1 dock will be permitted.

(3) Docks shall be constructed of natural materials that blend with the natural surroundings.

(4) Access to a dock or docks shall be along a single designated footpath not more than 4 feet wide to minimize disruption of the native vegetation buffer.

(5) Any steps or stairs necessary on the streambank to access the dock shall be constructed without cutting into the ground surface, unless site and soil conditions indicate that a recessed stairway will better meet the goals and objectives of designation.

(ii) Campgrounds, including those with provisions for tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, impervious pads, and utility hookups, if all of the following provisions are complied with:

(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.

(B) Commercial buildings associated with the campground are prohibited in the Natural River District.

- (C) All permanent structures shall be at least 200 feet from the river's edge.
- (D) Campsites are permitted at a density of not more than 4 sites per acre of land that is located in the Natural River District and landward of the native vegetation buffer.
- (E) A 100 foot-wide native vegetation buffer along the river shall be maintained.
- (F) Campsites that accommodate wheeled motor vehicles shall be at least 200 feet from the river's edge.
- (G) Walk-in campsites shall be landward of the native vegetation buffer.
- (H) Docks may be constructed at the rate of 1 dock not larger than 48 square feet for each 200 feet of river frontage, accessed by a single footpath not more than 4 feet wide.
- (I) No motorized vehicle access to the river is permitted.
- (J) Launching or retrieval of commercial watercraft, other than by registered campers on-site, is prohibited at any newly developed campground.
- (iii) Permanent vehicle bridges on tributaries subject to the provisions of R 281.177.

**R 281.178 Application and approval; procedures and standards; principal uses and special uses.**

Rule 8. (1) An application for a principal use shall be submitted and processed pursuant to all the following procedures:

- (a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:
  - (i) A completed application form that is signed by the applicant or the applicant's representative.
  - (ii) A site plan that meets the requirements of R 281.176.
  - (iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.
- (b) Within 21 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.
- (c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.
- (d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.
- (e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.
- (f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. An application for an extension shall be made before the permit expires. Any subsequent extensions for a variance approval shall have the written approval of the zoning review board.
- (2) An application for a special use permit shall be submitted and processed pursuant to all the following procedures:
  - (a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:
    - (i) A completed application form that is signed by the applicant or the applicant's representative.
    - (ii) Eight copies of a site plan that meets the requirements of R 281.176.

- (iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.
- (iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property that is being considered for a special use.
- (b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.
- (c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:
  - (i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.
  - (ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in 2(a)(iv) of this subrule.
  - (iii) Notice shall also be sent to all of the following entities:
    - (A) The natural rivers unit of the Michigan department of natural resources.
    - (B) Local tax assessing officials.
    - (C) Township and county clerks.
    - (D) Local building inspectors.
    - (E) State, district, or county health department, when applicable.
- (d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.177 be satisfied:
  - (i) That the purposes specified in R 281.172 are accomplished.
  - (ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.
  - (iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.
- (e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.
- (f) The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be required to approve a special use.
- (g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, then the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.
- (h) If the zoning review board determines that the applicant has failed to comply with any of the requirements of these rules or the approved special use permit, then the board, after a public hearing held in accordance with the provisions of subrule (c) of this rule may revoke any special use approval.
- (i) An application for a special use that has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts and conditions exist which may result in favorable action upon resubmission.
- (j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.
- (k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

**R 281.179 Variances and variance hearings.**

Rule 9. (1) A dimensional variance from these rules may be granted by the zoning review board after a public hearing or, in certain instances, by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in complying with these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.

(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in complying with these rules as specified in subrule (1) of this rule:

- (a) How substantial the variance is in relation to the zoning requirements.
- (b) Whether a substantial change will be effected in the character of the area or a substantial detriment created for adjoining properties.
- (c) Whether the difficulty can be overcome by some feasible method other than a variance.
- (d) Whether, in view of the manner in which the difficulty arose, the interests of justice shall be served by allowing the variance.
- (e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.
- (f) Whether the variance may result in a material adverse effect on the environment.

(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances are defined as reductions in setbacks for uses on any lawful lot that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures, including decks, porches, and steps.

(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:

- (a) The property cannot be used in a manner that is consistent with existing zoning.
- (b) The hardship results from the application of these rules to the applicant's property.
- (c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.
- (d) The hardship is not the result of the applicant's own actions.
- (e) The hardship is peculiar to the applicant's own property.

(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor that could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.

(6) For a land use variance, the zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:

- (a) The use will be consistent with and in accordance with the general objectives of the Upper Manistee River natural river plan.

- (b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and the use will not change the essential character of the natural river district.
- (c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or the persons or agencies that are responsible for the establishment of the proposed use may adequately provide essential services.
- (d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.
- (e) The use will be consistent with the intent and purposes of these rules.
- (f) The use or the structures to be used will not cause an overcrowding of the land or an undue concentration of population that may result in degradation to the river and district.
- (g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.
- (7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided in subrule (3) of this rule. The hearing and notice procedure shall follow the procedure established for special use applications by the provisions of R 281.178. A decision shall be made within 30 days after the final hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. Reasons for the decision shall be in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of at least 4 of the 7 voting members of the zoning review board shall be necessary to effect a dimensional variance in these rules. The concurring vote of at least 5 of the 7 voting members of the zoning review board is required to grant a land use variance in these rules. If the required concurring vote for approval of a variance is not achieved, then the variance is considered to be denied.
- (8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.
- (9) The effect of any variance shall be to create a nonconforming land use, lot, or structure that is then subject to R 281.180, which regulates continued use.
- (10) The zoning review board or the zoning administrator may impose conditions on an applicant before granting a variance. Such conditions shall be in writing. The zoning permit issued for the project for which the variance was approved is not valid until the applicant accepts the conditions in writing.
- (11) An application for a variance that has been denied by the zoning review board or zoning administrator shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, the application is significantly different in scope from the application that was denied or new and significant facts, and conditions exist which might result in favorable action upon resubmission.

**R 281.180 Nonconforming uses, lots, and structures.**

Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted pursuant to the terms of these rules. Legal nonconforming

uses, structures, or lots continue until they are brought into conformity and, in certain instances, permit the limited expansion of certain legal nonconforming uses and structures.

(2) If the combination of 2 or more contiguous nonconforming vacant lots owned by the same person results in an increase in conformance with the dimensional requirements of these rules, then the lots shall be combined for use, unless the lots are within a plat established before the adoption of these rules wherein more than 50% of the platted lots contain a single-family dwelling.

(3) An application for a zoning permit for a principal use on a legal nonconforming lot of record shall be approved by the zoning administrator if both of the following provisions are complied with:

(a) The principal use complies with these rules, except the minimum lot width and area requirements.

(b) The applicant or owner of the subject lot does not own other contiguous properties when, if combined with the nonconforming lot, would result in increasing the conformity of the lot.

(4) An application for a zoning permit for a principal use on a legal nonconforming lot of record that is not in compliance with subrule (3)(a) and (b) of this rule shall be treated as a variance pursuant to the provisions of R 281.179.

(5) Where, on the effective date of these rules a lawful use of land exists that is made unlawful pursuant to the terms of these rules, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:

(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of these rules without a land use variance. Enlarging, increasing or extending a lawful, nonconforming use shall be treated as a variance pursuant to R 281.179.

(b) The nonconforming use and the structures associated with the nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by such use on the effective date of these rules, unless the move would result in a greater degree of conformity with these rules.

(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.

(6) Where a lawful structure exists on the effective date of these rules or amendment of these rules that is made unlawful pursuant to the terms of these rules, the structure may be continued if it remains lawful, subject to all of the following provisions:

(a) The structure may not be expanded or altered in a way that increases its nonconformity, such as expanding toward the river's edge or increasing the height above the maximum height standard. However, the ground floor area, for example, "footprint," of any legal nonconforming single-family dwelling may be increased by up to 50%, or up to 75% if the expansion requires a minor variance, of the existing enclosed ground floor living area cumulative from the date of nonconformance, or to the minimum extent necessary to comply with local standards for minimum legal floor area for dwellings, whichever is greater, through alterations, repairs, and additions, if the increase does not increase the nonconformity of the dwelling. Any alteration of a legal nonconforming dwelling must, to the extent possible, be in compliance with all setback and other building requirements. Any expansion of a lawful, nonconforming dwelling, including addition of additional stories, shall be treated as a variance pursuant to the provisions of R 281.179 unless it meets the criteria in subrule 10(6)(b) of this rule.

(b) Expansion of a nonconforming single-family dwelling may be permitted by the zoning administrator, without the need for a variance, if either 1 of the following applies:

(i) When any part of the expansion is located within the native vegetation buffer, expansion of the dwelling is to the landward side of the existing structure and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.

- (ii) When the expansion is located completely outside the native vegetation buffer, expansion of the dwelling is not closer to the river than the closest point of the existing dwelling and is less than a 50% increase in enclosed ground floor living area and the height of the expansion is not greater than the height of the original dwelling, and the expansion is not located in a wetland or the 100-year floodplain.
- (c) If any legal nonconforming structure is destroyed by any means, except willful destruction by the property owner or his or her agent, to an extent that is more than 50% of twice its assessed evaluation, then restoration of the structure may be permitted by the zoning administrator, without the need for a variance, if all of the following conditions exist:
  - (i) The structure is not located on land subject to flooding (the 100-year floodplain).
  - (ii) The presence of the nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.
  - (iii) The restored structure occupies the same enclosed ground floor area, for example, "footprint," and contains the same square footage as the original structure.
  - (iv) Application for permission to restore a damaged structure is made within 12 months of the time of damage. An extension may be granted if the property is held in probate, an insurance settlement related to the damage is in dispute, or a criminal investigation related to the damage is in progress.
  - (v) If any of the provisions subdivision (c)(i) to (iv) of this subrule cannot be met, restoration of a destroyed legal nonconforming structure will require a variance.
- (d) If a structure is willfully destroyed by the property owner or his or her agent to an extent that is more than 50% of twice its assessed evaluation, the property owner shall be required to meet the building setback requirement to the greatest extent possible when constructing any new or replacement structure.
- (e) If a variance is granted for a new single-family dwelling to replace a single-family dwelling, the new dwelling shall not occupy more than 150% of the enclosed ground floor area of the destroyed dwelling, except that if a minor variance is granted for a new single-family dwelling to replace a single-family dwelling, the new dwelling shall not occupy more than 175% of the enclosed ground floor area of the destroyed dwelling.
- (f) A variance shall not be granted for a new nonconforming structure to replace a destroyed nonconforming structure that would result in the new structure being more nonconforming than the destroyed structure.
- (g) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure on the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules. Moving a legal nonconforming structure requires a zoning permit and may require a variance.

**R 281.181 Zoning administrator and zoning review board; appointment; duties.**

Rule 11. (1) The director shall appoint a zoning administrator and zoning review board to act as his or her agents to enforce these rules.

- (2) The zoning administrator shall do all of the following:
  - (a) Provide necessary forms and applications and receive and process applications.
  - (b) Determine and verify zoning compliance when the applicant's plans are found to conform to the provisions of these rules.
  - (c) Conduct site inspections to ensure compliance with these rules.
  - (d) Pursue resolution of violations of the provisions of these rules.
  - (e) Issue any authorized permits and certificates of zoning compliance.
  - (f) Identify and record information relative to nonconformities.

- (g) Maintain files of applications, permits, and other relevant documents.
- (h) Schedule meetings and hearings for, and provide assistance to, the zoning review board.
- (i) Act on minor variances as permitted by the provisions of R 281.179.
- (3) The zoning review board shall do all of the following:
  - (a) Adopt rules of procedure that govern the transaction of its business.
  - (b) Act upon requests for special use permits.
  - (c) Act on certain dimensional and land use variances pursuant to R 281.179.
  - (d) Act on the interpretation of the official zoning map pursuant to R 281.185.
- (4) In establishing the zoning review board, the director shall cooperate with, and seek the advice of, all of the following entities:
  - (a) Affected townships and counties.
  - (b) Conservation districts.
  - (c) Property owners' associations.
  - (d) Other interested local organizations and citizens.
- (5) The director shall request that each affected township appoint 1 person to represent its interests on matters within its jurisdiction. The director shall request that each affected county appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The director shall request that each affected conservation district appoint 1 person to represent its interests on matters within its jurisdiction. County, township, and conservation district representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or conservation districts do not appoint an individual to represent them within 60 days from the request by the director, then the director may make appointments on his or her own motion. The director shall appoint 1 local DNR representative and 2 citizens representatives who shall vote on all matters before the board.
- (6) In accordance with subrule (5) of this rule, the director shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The director shall appoint alternates for the local DNR representative and 2 citizens' representatives. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.
- (7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.

**R 281.182 Appeals; contested cases.**

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of 1969 PA 306, MCL 24.201, and R 299.3071 to R 299.3081.

**R 281.183 Violations; effect; remedies.**

Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed,



moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates these rules. The director shall not waive any of his or her rights or remedies against any person who violates these rules if the violations were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to these rules is deemed invalid from the date of the authorization.

(2) In addition to all other remedies, the director may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.

**R 281.184 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.**

Rule 14. (1) The director may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of 1969 PA 306, MCL 24.271 to 24.287, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.182.

(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:

- (a) The county register of deeds.
- (b) Township and county clerks.
- (c) The local building inspector.
- (d) Local soil erosion and sedimentation control enforcement agencies.
- (e) The conservation district.
- (f) County drain commissioner.
- (g) Zoning review board members.

(3) A local zoning ordinance that meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and either 1943 PA 184, MCL, 1943 PA 183, MCL, whichever is applicable, shall take precedence over these rules. If a local zoning ordinance does not meet all of the requirements of Natural Rivers Part 305 of 1994 PA 451, or if the local ordinance becomes inapplicable to the land area encompassed by the Upper Manistee River natural river district through court action or for any other reason, these rules shall apply. A local unit of government may, at any time, request the assistance of the department of natural resources in developing an ordinance that meets the requirements of Natural Rivers Part 305 of 1994 PA 451. The director shall determine if a local ordinance meets all of the requirements of Natural Rivers Part 305 of 1994 PA 451, and shall notify the local unit of government of his or her decision in writing. If the director withdraws his or her approval of a local zoning ordinance, these rules shall apply.

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**ADMINISTRATIVE RULES**

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**ORR # 2004-035**

**DEPARTMENT OF NATURAL RESOURCES**

**LAW ENFORCEMENT DIVISION**

**REGULATION OF LANDS ADMINISTERED  
BY THE DEPARTMENT OF NATURAL RESOURCES**

Filed with the Secretary of State December 20, 2004.  
These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the department of natural resources by section 504 of 1994 PA 451, MCL 324.504)

R 299.922 of the Michigan Administrative Code is amended to read as follows:

**R 299.922 Unlawful acts generally.**

Rule 22. On lands owned or under the control of the department, it is unlawful for a person or persons to do any of the following:

- (a) To enter, use, or occupy state-owned lands for any purpose when they are posted against entry, use, or occupancy, as ordered by the department.
- (b) To dispose of refuse, rubbish, trash, or garbage not resulting from the use of state-owned lands in receptacles provided on state-owned lands.
- (c) To set fire to the contents of a trash container.
- (d) To place or burn garbage in a fire ring or stove, or bury refuse, rubbish, trash, or garbage, regardless of its origin.
- (e) To engage in any violent, abusive, loud, boisterous, vulgar, lewd, or otherwise disorderly conduct, or to lounge, sit, or lie upon walks, roads, or paths obstructing the free passage of another person.
- (f) To place or erect a fence or barrier, to construct or occupy improvements, or to enclose the lands.
- (g) To move, remove, destroy, mutilate, or deface posters, notices, signs, or markers of the department of natural resources or any other agency of government.
- (h) To destroy, damage, or remove trees, shrubs, wildflowers, grasses, or other vegetation. Except in wildlife food plots, this subdivision does not apply to picking and removing mushrooms, berries, and edible fruits or nuts for personal use.
- (i) To peddle or systematically solicit business of any nature; distribute or post any handbills or other advertising matter; post signs; paint or otherwise mark any tree or rock on any lands, waters, structures, or property.
- (j) To possess a glass container within any land or water area that is designated as a bathing beach or a land or water area that is regularly used for sunbathing, swimming, or wading.
- (k) To obstruct any road or trail in a manner that hinders public access to the lands.
- (l) To park vehicles of any type in areas posted as no parking; or, where designated parking areas exist, to park vehicles of any type in an area other than the designated parking area. If a motor vehicle is found

parked on state lands, then the license plate displayed on the motor vehicle shall constitute prima facie evidence that the person who parked it there is the owner of the vehicle.

(m) To hold events including, but not limited to, races, endurance contests, tournaments, or trail rides, unless the events are conducted pursuant to a permit. The permit may include a charge to the sponsor or permittee for the use of the land. An event may require a performance bond to ensure permit compliance and may require public liability insurance. The department may waive the requirement for a permit for events where the number of participants is 20 or more individuals if the department determines that the event will not require department oversight, and the event will have a minimal impact on the resource and on the use of the lands by others.

(n) To use a loudspeaker, public address system, or sound-amplifying equipment of any kind, except for an electronic game-calling device that is lawfully used while hunting, or to operate a motor, motorboat, motor vehicle, radio, television, generator, or any other device in a manner that produces excessive noise.

(o) To use or operate any wheeled, motorized vehicle in the Upper Peninsula of this state, except on a designated route, a designated trail, a designated area, or a forest road not otherwise posted as closed to the use of motorized vehicles or entry.

(p) To use or operate any wheeled, motorized vehicle in the Lower Peninsula of this state, except on a designated route, a designated trail, or a designated area. A wheeled, motorized vehicle that is properly registered under 1949 PA 300, MCL 257.1 et seq. may be operated on a forest road not otherwise posted as closed to the use of motorized vehicles or entry.

(q) To camp in a state park, recreation area, public access site, or designated campground on other than a designated site.

(r) To camp in any designated campground, access site, or location in a state forest or state game area for more than 15 consecutive nights in a calendar year. To be considered a new camp, the location shall be not less than 1/2 mile from the previous camp.

(s) To leave a campsite unoccupied for more than a 24-hour period after the camp is established. A campsite is considered to be occupied if at least 1 member of the camping party is in attendance during the nighttime hours.

(t) To store or leave a watercraft, fish shanty, or other property on state lands for more than 24 hours. This subdivision does not apply to lawfully occupied designated camping sites or to ground blinds and tree stands that meet legal requirements.

(u) For more than 1 single family or more than 4 unrelated persons to camp on 1 designated campsite. For the purposes of this subdivision, a single family includes parents or guardians and their children. A single family may include other relatives if not more than 1 recreational vehicle, camping trailer, or pickup camper is used and if there are fewer than 9 individuals.

(v) To ride or lead a horse, pack animal, or other riding animal, or any animal-driven vehicle on any area, except on roads that are open to the use of motor vehicles, trails, bridle paths, and campgrounds designated for such use by the department and on state forest lands not posted closed to such use or entry.

(w) To operate the motor or motors of a vessel at more than idle speed at any boat launch ramp administered by the department, unless the propeller is disengaged.

(x) To use such areas for commercial operations unless the commercial operations are conducted pursuant to a permit. The department may waive the requirement for a permit for commercial operations where the department determines that the commercial operation will not require department oversight and the commercial operation will have a minimal impact on the resource and the use of lands by others.

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**ADMINISTRATIVE RULES**

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**ORR # 2004-040**

**DEPARTMENT OF LABOR & ECONOMIC GROWTH**

**BOARD OF REAL ESTATE APPRAISERS**

**GENERAL RULES**

Filed with the Secretary of State on December 16, 2004.

These rules are effective 7 days after filing with the Secretary of State

(By authority conferred on the department of labor and economic growth by sections 205, 308, 2605, and 2617 of 1980 PA 299, MCL 339.205, 339.308, 339.2605, and 339.2607, and Executive Reorganization Orders No. 1996-2, MCL 445.2001, and 2003-18, MCL 445.2011)

R 339.23101 and R 339.23309 of the Michigan Administrative Code are amended as follows:

**R 339.23101 Definitions.**

Rule 101. (1) As used in these rules:

(a) "A course covering the "uniform standards of professional appraisal practice" in section 2627(5) and the "uniform standards of appraisal practice and ethics" in sections 2611(1), 2613(a)(xv), 2614(b)(xv) and 2615(b)(xv) of the act means the 15-hour national USPAP course or the 7-hour national USPAP update seminar, or their equivalent, as required by the AQB real property appraiser qualification criteria, adopted on October 27, 2000, and effective January 1, 2003.

(b) "Act" means 1980 PA 299, MCL 339.101 et seq., and known as the occupational code.

(c) "Board" means the board of real estate appraisers.

(d) "Licensee" means an individual who is licensed under article 26 of the act, including a real estate valuation specialist, a limited real estate appraiser, a state-licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser.

(e) "Market analysis as performed by a real estate licensee" means the activity defined in section 2601(a)(i) and (ii) of the act, and means analysis solely for the purpose of establishing potential sale, purchase, or listing price of real property or the rental rate of real property and is not for the purpose of evaluating a property for mortgage lenders in the primary or secondary mortgage market.

"Real estate consulting", as used in sections 2613, 2614, and 2615 of the act, is that function or functions described in standards 4 and 5 of the uniform standards of the uniform standards of professional appraisal practice.

"Transaction value" means any of the following:

(i) For loans or other extensions of credit, the amount of the loan or the extension of credit.

(ii) For sales, leases, purchases, and investments, or in exchanges of real property, the market value of the real property interest involved.

For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

"Uniform standards of professional appraisal practice" or "USPAP" means the

uniform standards of professional appraisal practice, published by the Appraisal Foundation, effective January 1, 2005. Copies of the USPAP 2005 edition are available at a cost at the time of adoption of these rules of \$30.00 plus \$8.50 for shipping from the Appraisal Foundation, 1029 Vermont Avenue NW, Suite 900, Washington DC 20005-3517. Mail orders: P.O. Box 96724, Washington DC 20090-6734, phone: toll-free 800/805-7857 or 240/864-0100. Copies of the current USPAP edition may be downloaded without charge from the following Internet address: [www.appraisalfoundation.org](http://www.appraisalfoundation.org). The USPAP 2005 edition may be reviewed or purchased from the department of labor and economic growth by mailing to the Bureau of Commercial Services, 2501 Woodlake Circle, Okemos Michigan 48824, mailing address, P.O. Box 30018, Lansing MI 48909, phone: 517/241-9201, at a cost as of the time of adoption of these rules of \$50.00 plus \$11.00 shipping and handling costs.

(2) Terms defined in articles 1 to 6 and 26 of the act have the same meanings when used in these rules.

**R 339.23309 Sponsors; duties; instructors.**

Rule 309. (1) Each sponsor shall be responsible for all of the following:

- (a) Compliance with all laws and rules relating to appraiser education.
- (b) Providing students with current and accurate information.
- (c) Maintaining an atmosphere that is conducive to learning in the classroom.
- (d) Assuring and certifying the attendance of students who are enrolled in courses.
- (e) Providing assistance to students and responding to questions relating to course materials.
- (f) Supervising all guest lecturers and relating all information that is presented to the practice of real estate appraisal.

(2) Distance education sponsors shall ensure that all of the following qualifications for their courses are complied with:

(a) The course shall be presented with an instructor available to answer questions, provide information, and monitor student attendance.

(b) The course meets 1 of the following criteria:

(i) The course has been presented by an accredited college or university (through the commission on colleges or a regional accreditation association) that offers distance education programs in other disciplines.

(ii) The course has received approval of the international distance education certification center (IDECC) for the course design and delivery mechanism and either of the following:

(A) The approval of the appraiser qualification board through the AQB course approval program.

(B) The approval of the licensing or certifying jurisdiction where the course is being offered for the content of the course.

(C) The course meets all of the following requirements:

The course is equivalent to 2 classroom hours.

(ii) A student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation. If a written examination is not required for accreditation, a student successfully completes course mechanisms required for accreditation which demonstrate mastery and fluency.

(iii) The sponsor ensures that students completing the distance education courses will achieve the equivalent of the stated classroom hours per course.

A sponsor shall select as instructors only individuals who can demonstrate mastery of the material being taught and who possess 1 of the following qualifications:

(a) Experience as a faculty member of an institution of higher education that is authorized to grant degrees.

- (b) A state licensed, certified residential, or certified general appraiser with 3 years of appraisal experience.
- (c) Other experience acceptable to the sponsor for courses other than prelicensure courses.
- (4) Instructors of the uniform standards of professional appraisal practice (USPAP) shall have complied with the AQB instructor certification program as required by the real property appraiser qualification criteria, effective January 1, 2003. This requirement will be effective in this state on January 1, 2003, or on the effective date of these rules, whichever is later.

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**ADMINISTRATIVE RULES**

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**ORR # 2004-045**

**DEPARTMENT OF LABOR AND ECONOMIC GROWTH**

**DIRECTOR'S OFFICE**

**OCCUPATIONAL HEALTH STANDARDS**

Filed with the Secretary of State on December 16, 2004.  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of labor and economic growth by sections 14 and 24 of 1974 PA 154 and Executive Reorganization Order Nos. 1996-1, 1996-2, and 2003-18, MCL 408.1014, 408.1024, 330.3101, 445.2001, and 445.2011)

R 325.62991, R 325.62992, R 325.62994, R 325.62995, and R 325.62996 of the Michigan Administrative Code are amended as follows:

**PART 665. UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND  
COMPRESSED AIR**

R 325.62991 Underground construction; adoption of regulations by reference; exceptions.

Rule 1. (1) The federal occupational safety and health administration's regulations on underground construction that have been promulgated by the United States department of labor and codified at 29 C.F.R. §1926.800, are adopted by reference in these rules as of the effective date of these rules, except for the following regulations and except as provided in subrule (2) of this rule:

- (a) Section 1926.800(b)(1) to (3).
  - (b) Section 1926.800(c).
  - (c) Section 1926.800(d).
  - (d) Section 1926.800(e)(2).
  - (e) Section 1926.800(f)(1) to (5).
  - (f) Section 1926.800(g)(1) to (5).
  - (g) Section 1926.800(i)(4) and (5).
  - (h) Section 1926.800(j)(1)(viii) and (2)(iv) and (v).
  - (i) Section 1926.800(m)(1) to (8) and (10) to (12).
  - (j) Section 1926.800(n)(2).
  - (k) Section 1926.800(o)(1) and (2), (3)(i) to (iv), and (4)(i) and (ii).
  - (l) Section 1926.800(p).
  - (m) Section 1926.800(q).
  - (n) Section 1926.800(r)(1) to (3), (5), (6)(i)(A) and (C), (7) to (13)(i), and (14) to (17).
  - (o) Section 1926.800(s)(1) to (2).
  - (p) Section 1926.800(t)(1)(ii), (iv)(A) and (B), (vi), (2), (3)(i), (ii), (viii), (ix), (xi), (xviii) to (xxiii), and (4)(ii) to (iv) and (vii).
- (2) The following references in 29 C.F.R. §1926.800 have the following meanings:

- (a) A reference to 29 C.F.R. §§1926.650 to 1926.652, subpart P, excavations, means construction safety standard Part 9. Excavation, Trenching, and Shoring, being R 408.40901 et seq. of the Michigan Administrative Code.
- (b) A reference to 29 C.F.R. §§1926.950 to 1926.960, subpart V, power transmission and distribution, means construction safety standard Part 16. Power Transmission and Distribution, being R 408.41601 et seq. of the Michigan Administrative Code.
- (c) A reference to 29 C.F.R. §1926.55, gases, vapors, fumes, dusts, and mists, in subpart D means occupational health standard Part 601. Air Contaminants for Construction, being R 325.60151 et seq. of the Michigan Administrative Code.
- (d) A reference to 29 C.F.R. §1910.20 (redesignated as 1910.1020), access to employee exposure and medical records, in subpart Z means occupational health standard Part 470. Employee Medical Records and Trade Secrets, being R 325.3451 et seq. of the Michigan Administrative Code.
- (e) A reference to 29 C.F.R. §1926.65, hazardous waste operations and emergency response, in subpart D means occupational health standard Part 432. Hazardous Waste Operations and Emergency Response, being R 325.52101 et seq. of the Michigan Administrative Code.
- (f) A reference to 29 C.F.R. §1926.56, illumination, in subpart D means construction safety standard Part 1. General Rules, R 408.40133 Illumination of the Michigan Administrative Code.
- (g) A reference to 29 C.F.R. §§1926.150 to 1926.159, subpart F, fire prevention and protection, means construction safety standard Part 18. Fire Protection and Prevention, being R 408.41801 et seq. the Michigan Administrative Code.
- (h) A reference to 29 C.F.R. §§1926.350 to 1926.354, subpart J, welding and cutting, means construction safety standard Part 7. Welding and Cutting, being R 408.40701 et seq. of the Michigan Administrative Code.
- (i) A reference to 29 C.F.R. §§1926.400 to 449, subpart K, electrical, means construction safety standard Part 17. Electrical Installations, being R 408.41701 et seq. of the Michigan Administrative Code.
- (j) A reference to 29 C.F.R. §§1926.550 to 1926.556, subpart N, cranes, derricks, hoists, elevators, and conveyors, means construction safety standard Part 10. Lifting and Digging Equipment, being R 408.41001a et seq. of the Michigan Administrative Code.
- (k) A reference to 29 C.F.R. §1926.550, cranes and derricks, in subpart N means construction safety standard Part 10. Lifting and Digging Equipment, being R 408.41001a et seq. of the Michigan Administrative Code.
- (l) A reference to 29 C.F.R. §1926.552, material hoists, personnel hoists and elevators, in subpart N means construction safety standard Part 10. Lifting and Digging Equipment, being R 408.41065a of the Michigan Administrative Code.
- (3) The adopted federal regulations shall have the same force and effect as a rule promulgated under 1974 PA 154, being §408.1001 et seq. of the Michigan Compiled Laws.

R 325.62992 Caissons; adoption of regulations by reference.

Rule 2. (1) The federal occupational safety and health administration's regulations on caissons that have been promulgated by the United States department of labor and codified at 29 C.F.R. §1926.801 are adopted by reference in these rules as of the effective date of these rules, except for the following sections:

- (a) 1926.801(b).
- (b) 1926.801(c).

(2) The adopted federal regulations shall have the same force and effect as a rule promulgated under 1974 PA 154, being §408.1001 et seq. of the Michigan Compiled Laws.



R 325.62994 Compressed air; adoption of regulations by reference.

Rule 4. (1) The federal occupational safety and health administration's regulations on compressed air that have been promulgated by the United States department of labor and codified at 29 C.F.R. §1926.803 are adopted by reference in these rules as of the effective date of these rules.

(2) The following references in 29 C.F.R. §1926.803 have the following meanings:

(a) A reference to 29 C.F.R. §1926.800, subpart D, occupational health and environmental controls, means occupational health construction standards.

(b) A reference to 29 C.F.R. §§1926.400 to 449, subpart K, electrical, means construction safety standard Part 17. Electrical Installations, being R 408.41701 et seq. of the Michigan Administrative Code.

(c) A reference to 29 C.F.R. §1926.900 to 1926.914, subpart U, blasting and use of explosives, means construction safety standard Part 27. Blasting and Use of Explosives, being R 408.42701 et seq. of the Michigan Administrative Code.

(d) A reference to 29 C.F.R. §1926.500 to 1926.503, subpart M, fall protection, means construction safety standard Part 45. Fall Protection, being R 408.44501 et seq. of the Michigan Administrative Code.

(e) A reference to 29 C.F.R. §§1926.800 to 804, subpart S, underground construction, caissons, cofferdams, and compressed air, means construction safety standard Part 14. Tunnels, Shafts, Caissons, and Cofferdams, being R 408.41401 et seq. of the Michigan Administrative Code and occupational health standard Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air, being R 325.62991 et seq. of the Michigan Administrative Code.

(3) The adopted federal regulations shall have the same force and effect as a rule promulgated under 1974 PA 154, being §408.1001 et seq. of the Michigan Compiled Laws.

R 325.62995 Definitions applicable to underground construction, caissons, cofferdams, and compressed air; adoption by reference.

Rule 5. (1) The federal occupational safety and health administration's definitions applicable to underground construction, caissons, cofferdams, and compressed air that have been promulgated by the United States department of labor and codified at 29 C.F.R. §1926.804 are adopted by reference in these rules as of the effective date of these rules.

(2) The adopted federal regulations shall have the same force and effect as a rule promulgated under 1974 PA 154, being §408.1001 et seq. of the Michigan Compiled Laws.

R 325.62996 Availability of documents.

Rule 6. The federal regulations adopted by reference in these rules are available without cost as of the time of adoption of these rules from the United States Department of Labor, OSHA, 801 South Waverly, Room 306, Lansing, Michigan 48917 or via the internet at web-site: [www.osha.gov](http://www.osha.gov), or from the Michigan Department of Labor and Economic Growth, MIOSHA Standards Section, P.O. Box 30643, Lansing, Michigan 48909.

(2) The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Labor and Economic Growth, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at web-site: [www.michigan.gov/mioshastandards](http://www.michigan.gov/mioshastandards). For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 1 General Rules, R 408.40133.

(b) Construction Safety Standard Part 7 Welding and Cutting, R 408.40701 et seq.

(c) Construction Safety Standard Part 9 Excavation, Trenching, and Shoring, R 408.40901 et seq.

(d) Construction Safety Standard Part 10 Lifting and Digging Equipment, R 408.41001a et seq.

- (e) Construction Safety Standard Part 14 Tunnels, Shafts, Caissons, and Cofferdams, R 408.41401 et seq.
- (f) Construction Safety Standard Part 16 Power Transmission and Distribution, R 408.41601 et seq.
- (g) Construction Safety Standard Part 17 Electrical Installations, R 408.41701 et seq.
- (h) Construction Safety Standard Part 18 Fire Protection and Prevention, R 408.41801 et seq.
- (i) Construction Safety Standard Part 27 Blasting and Use of Explosives, R 408.42701 et seq.
- (j) Construction Safety Standard Part 45 Fall Protection, R 408.44501 et seq.
- (k) Occupational Health Standard Part 432 Hazardous Waste Operations and Emergency Response, R 325.52101 et seq.
- (l) Occupational Health Standard Part 470 Employee Medical Records and Trade Secrets, R 325.3451 et seq.
- (m) Occupational Health Standard Part 601 Air Contaminants for Construction, R 325.60151 et seq.

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**PROPOSED ADMINISTRATIVE RULES,  
NOTICES OF PUBLIC HEARINGS**

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*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

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**PROPOSED ADMINISTRATIVE RULES**

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**ORR # 2004-059**

DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
DIRECTOR'S OFFICE  
ATHLETIC BOARD OF CONTROL

Filed with the Secretary of State on  
These rules take effect immediately upon filing with the Secretary of State

(By authority conferred on the department of labor and economic growth by section 308 of 1980 PA 299, as amended, MCL 339.308, section 205 of 1980 PA 299, as amended, and Executive Order 2003-18, MCL 405.1011)

R 339.3101, R 339.3102, R 339.3201, R 339.3202, R 339.3203, R 339.3204, R 339.3205, R 339.3206, R 339.3207, R 339.3207a, R 339.3208, R 339.3209, R 339.3210, R 339.3210a, R 339.3211, R 339.3212, R 339.3213, R 339.3214, R 339.3215, R 339.3216, R 339.3217, R 339.3218, R 339.3219, R 339.3220, R 339.3221, R 339.3222, R 339.3223, R 339.3224, R 339.3225, R 339.3226, R 339.3227, R 339.3228, R 339.3229, R 339.3230, R 339.3231, R 339.3232, R 339.3233, R 339.3234, R 339.3235, and R 339.3236 are rescinded from the Michigan Administrative Code as follows:

**PART 1. GENERAL PROVISIONS**

**R 339.3101 Definitions: Rescinded.**

**Rule 101.** (1) ~~As used in these rules:~~

- (a) ~~"Act" means Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code.~~
- (b) ~~"Board" means the athletic board of control.~~
- (c) ~~"Contest" means an individual bout between two boxers.~~
- (d) ~~"Department representative" means an individual employed by or under contract with the department or a member of the athletic board of control who is assigned to assure compliance with the law and rules at a boxing show.~~
- (e) ~~"Down" means when any part of a contestant's body, except the contestant's feet, touches the ring floor, or when the contestant is hanging helplessly over the ropes as a result of a legal blow as ruled by the referee.~~
- (f) ~~"Drug" means a controlled substance as regulated pursuant to the provisions of sections 7101 to 7231 of Act No. 368 of the Public Acts of 1978, as amended, being §333.7101 to 333.7231 of the Michigan Compiled Laws.~~
- (g) ~~"Gong" means a bell, horn, or buzzer that has a clear tone loud enough for the contestants and referee to hear.~~
- (h) ~~"Mandatory count of 8" means a required count of 8 that is given by a referee to a contestant who has been knocked down.~~
- (i) ~~"No contest" means that neither contestant wins the contest.~~
- (j) ~~"Show" means the program of boxing planned for a specific date by the promoter and includes one or more individual contests.~~

~~(k) "Stalling and faking" means that a contestant is pulling his or her punches or holding an opponent or deliberately maintaining a clinch.~~

~~(l) "Standing mandatory count of 8" means a count of 8 that is given at the discretion of a referee to a contestant who has been dazed by a blow and is unable to defend himself or herself.~~

December 14, 2004

~~(m) "Wrestling" means the sport consisting of hand-to-hand combat between 2 unarmed opponents who contend by grappling with, and striving to trip or throw down, an opponent.~~

~~(2) The terms defined in articles 1 and 8 of the act have the same meanings when used in these rules.~~

**R 339.3102 Public meetings. Rescinded.**

~~Rule 102. (1) Each person shall be provided a reasonable opportunity to address a board meeting on an agenda item or one not on the agenda if the person makes a request to the board's offices or to the department before convening the meeting or with the chairperson before the conclusion of the meeting.~~

~~(2) A group of 5 or more persons is requested to give advance notice to the chairperson of its intention to attend a public meeting so that the effort may be made to provide adequate space.~~

~~(3) The chairperson shall do all of the following:~~

~~(a) Conduct the public participation portion of the public meeting in an orderly and decorous fashion.~~

~~(b) Recognize each person wishing to speak on a matter within the time limits available.~~

~~(c) Allow for public comment on each agenda item.~~

~~(d) Allocate a specific time on the agenda for general public comments.~~

~~(e) Limit the number of persons admitted to the meeting room if necessary to comply with public safety laws and regulations.~~

~~(f) Temporarily recess and promptly reconvene the meeting in a larger meeting room if more space is necessary.~~

~~(g) Impose reasonable limitations on time allotted for public comments.~~

~~(h) Inquire as to the interest or interests, if any, represented by the person addressing the meeting.~~

~~(i) To preserve the rights of all parties, prohibit a member of the public from addressing the meeting on the subject of a disciplinary case pending before a board.~~

**PART 2. PROFESSIONAL BOXING**

**R 339.3201 Professional boxing weights. Rescinded.**

~~Rule 201. (1) Boxing weights are as follows:~~

~~(a) Jr. Flyweight . . . Not over 108 lbs.~~

~~(b) Flyweight . . . . . Between 108.1 lbs. and 112 lbs.~~

~~(c) Bantamweight . . . Between 112.1 lbs. and 118 lbs.~~

~~(d) Jr. Featherweight . . . Between 118.1 lbs. and 122 lbs.~~

~~(e) Featherweight . . . Between 122.1 lbs. and 126 lbs.~~

~~(f) Jr. Lightweight . . . Between 126.1 lbs. and 130 lbs.~~

~~(g) Lightweight . . . . . Between 130.1 lbs. and 135 lbs.~~

~~(h) Jr. Welterweight . . . Between 135.1 lbs. and 140 lbs.~~

~~(i) Welterweight . . . . . Between 140.1 lbs. and 147 lbs.~~

- ~~(j) Jr. Middleweight . . . Between 147.1 lbs. and 154 lbs.~~
- ~~(k) Middleweight . . . Between 154.1 lbs. and 160 lbs.~~
- ~~(l) Supermiddleweight . . . Between 160.1 lbs. and 168 lbs.~~
- ~~(m) Lt. Heavyweight . . . Between 168.1 lbs. and 175 lbs.~~
- ~~(n) Cruiserweight . . . Between 175.1 lbs. and 190 lbs.~~
- ~~(o) Heavyweight . . . . Over 175 lbs.~~

~~(2) A boxer shall not fight another boxer who is outside of the boxer's weight classification unless prior approval is given by the department.~~

~~(3) The department shall not allow a contest in which the contestants are not fairly matched. In determining if contestants are fairly matched, the department shall consider all of the following factors with respect to the contestants:~~

- ~~(a) The win-loss record of the boxers.~~
- ~~(b) The weight differential.~~
- ~~(c) The caliber of opponents.~~
- ~~(d) Each boxer's number of fights.~~

**R 339.3202 Weighing in. Rescinded.**

~~Rule 202. (1) Within 24 hours before the start of a show, the department representative shall weigh in each contestant in the presence of his or her opponent.~~

~~(2) Contestants shall appear at the time designated for weighing in unless properly excused from appearing.~~

~~(3) Contestants shall be licensed at the time they are weighed in.~~

~~(4) Only those contestants who have been previously approved for the show shall be permitted to weigh in.~~

~~(5) A contestant who has contracted to box in a given weight shall not be permitted to compete if he or she exceeds that weight at the weigh in, unless the contract provides for the opposing contestant to agree to a weight differential of no more than 3 pounds. If the weigh in is held the day before the show and if the opposing contestant does not agree to, or the contract does not provide for, a weight exception, the contestant may have 1 hour to attempt to lose not more than 3 pounds in order to be reweighed. If the weigh in is held on the day of the show, a contestant who loses more than 2 pounds in order to make weight and be reweighed shall not be permitted to compete without the approval of either the physician or the department representative in consultation with the physician.~~

**R 339.3203 Licensing requirements; boxers. Rescinded.**

~~Rule 203. A boxer may be licensed as a manager or a second, but shall not be licensed as a timekeeper, judge, referee, or matchmaker.~~

**R 339.3204 Number of rounds. Rescinded.**

~~Rule 204. (1) A boxing contest shall consist of not less than 4 and not more than 10 scheduled rounds. Three minutes of boxing shall constitute a round. There shall be a rest period of 1 minute between the rounds.~~

~~(2) A promoter shall contract with a sufficient number of contestants to provide a program that consists of not less than 30, and not more than 56, rounds of boxing, unless otherwise approved by the department.~~

**R 339.3205 Ring; dimensions and construction. Rescinded.**

~~Rule 205. (1) The ring shall be square and be not less than 16 feet nor more than 24 feet on a side, measured within the ropes. The ring floor shall extend not less than 18 inches beyond the ropes. There shall be padding over the ring post if the ring posts are nearer than 18 inches to the ring ropes.~~

~~(2) The ring floor shall be padded with not less than a 5/8 of an inch base of ensolite or material with similar or superior shock absorbing and deceleration characteristics which is capable of reducing initial impact and which is approved by the board. The padding shall be placed on 1 inch of celotex building board or the equivalent. The padding shall extend beyond the ring ropes and over the edge of the platform and shall be covered with canvas, duck, or a similar material, but not plastic material, that is tightly stretched and laced securely in place under the apron. The corners of the ring shall be padded.~~

~~(3) Ring posts shall be not less than 3, nor more than 4, inches in diameter extending from the floor to a height of 58 inches above the floor of the ring. The ropes shall be connected to posts with the extension not shorter than 18 inches.~~

~~(4) The ring shall be not more than 4 feet high. Steps shall be provided for the use of contestants.~~

~~(5) The ring shall not have less than 4 ropes which can be tightened and which are not less than 1 inch in diameter. The ropes shall be evenly spaced, securely tied halfway between the ring posts, and wrapped in a soft material.~~

**R 339.3206 Gloves. Rescinded.**

~~Rule 206. (1) A contestant's gloves shall be examined before a contest by the referee and the department representative. If gloves are found to be broken or unclean or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins and shall be retained by the department representative who shall check them for tampering.~~

~~(2) A promoter shall be required to have on hand an extra set of gloves to be used if a contestant's gloves are broken or damaged during the course of a contest.~~

~~(3) Gloves for a main event may be put on in the ring after the referee has inspected the bandaged hands of both contestants.~~

~~(4) During a contest, male contestants shall wear gloves weighing not less than 8 ounces each; female contestants shall wear gloves weighing not less than 10 ounces each. The weight of the gloves may be changed at the discretion of the department. The model and style of the gloves shall be approved before the contest by the department representative.~~

~~(5) Glove laces shall be tied on the outside of the back of the wrist of the gloves and shall be secured with waterproof medical tape. The tips of the laces shall be removed.~~

**R 339.3207 Bandage specifications. Rescinded.**

~~Rule 207. (1) Except as agreed to by the managers of the contestants or as provided in subrule (2) of this rule, a contestant's bandage for each hand shall consist of soft gauze that is not more than 10 yards long and not more than 2 inches wide. The gauze shall be held in place by not more than 6 feet of medical tape per hand.~~

~~(2) Except as agreed to by the managers of the opposing contestants, light heavyweight, cruiserweight, and heavyweight contestants' bandages for each hand shall consist of soft gauze that is not more than 12 yards long and not more than 2 inches wide. Gauze shall be held in place by not more than 8 feet of medical tape per hand.~~

~~(3) To protect a contestant's hand, bandages may be held in place by winding medical tape not more than 1 1/2 inches wide once around the hand. The tape may cross the back of the hand twice, but shall not extend within 1 inch of the knuckles.~~

~~(4) Bandages shall be adjusted in the dressing room under the supervision of the department representative.~~

~~(5) The use of water or any other substance other than medical tape on the bandages is prohibited.~~

**R 339.3207a Mouthpieces. Rescinded.**

~~Rule 207a. A round shall not begin until the contestant's protective mouthpiece is in place. If, during a round, the mouthpiece falls out of the contestant's mouth, the referee shall, as soon as practicable, stop the contest and escort the contestant to his or her corner. The mouthpiece shall be rinsed out and replaced in the contestant's mouth and the contest shall continue.~~

**R 339.3208 Contestant use or administration of any substance. Rescinded.**

~~Rule 208. (1) The use or administration of drugs, stimulants, or nonprescription preparations by or to a contestant during a contest is prohibited, except as provided in this rule.~~

~~(2) The giving of a substance other than water to a contestant during the course of the contest is prohibited.~~

~~(3) The discretionary use of petroleum jelly may be allowed around the eyes; however, the use of petroleum jelly, grease, or any other substance on the arms, legs, or body is prohibited.~~

~~(4) The discretionary use of coagulants, as approved by the board, may be allowed between rounds to stop the bleeding of minor cuts and lacerations sustained by a contestant. The use of Monsel solution, silver nitrate, new skin, flex collodion, or substances having an iron base is prohibited, and the use of such substances by a contestant is cause for immediate disqualification.~~

~~(5) The ringside physician shall monitor the use and application of any foreign substances administered to a contestant before or during a contest and shall confiscate any suspicious foreign substance for possible laboratory analysis, the results of which shall be forwarded to the department.~~

**R 339.3209 Ringside equipment. Rescinded.**

~~Rule 209. (1) Each promoter shall provide all of the following items:~~

~~(a) A sufficient number of buckets for use by the contestants.~~

~~(b) Stools for use by the seconds.~~

~~(c) Rubber gloves for use by referees, seconds, ringside physicians, and department representatives.~~

~~(d) Containers for contestants to spit in.~~

~~(e) A stretcher, which shall be kept under the ring near the physician.~~

~~(f) A portable resuscitator with oxygen.~~

~~(g) An ambulance with attendants on site at all times when contestants are boxing. Arrangements shall be made for a replacement ambulance if the first ambulance is required to transport a contestant for medical treatment. The location of the ambulance and the arrangements for substitute ambulance service shall be communicated to the physician.~~

~~(h) Seats at ringside for assigned officials. The physician shall be seated near the steps into the ring.~~

~~(i) Scales for weigh ins, which the department may require to be certified.~~

~~(j) A gong.~~

~~(k) A public address system.~~

~~(l) A separate dressing room for each sex, if boxers of both sexes are participating.~~

~~(m) A separate room for physical examinations.~~

~~(n) A separate dressing room shall be provided for officials, unless the physical arrangements of the site make the provision of an additional dressing room impossible.~~

~~(o) Adequate security personnel.~~

~~(p) High stools for use by the judges.~~

~~(q) Sufficient contest sheets for ring officials and department representatives.~~



- ~~(2) A promoter shall only hold boxing shows in premises that conform to the laws, ordinances, and regulations of the city, town, or village where the shows are situated.~~
- ~~(3) Restrooms shall not be used as dressing rooms and rooms for physical examinations and weigh-ins.~~

**R 339.3210 Boxing officials. Rescinded.**

~~Rule 210. (1) Each contest shall have not less than the following officials:~~

- ~~(a) One referee.~~
- ~~(b) Three judges.~~
- ~~(c) One timekeeper.~~
- ~~(d) One physician.~~
- ~~(2) A licensed referee, judge, or timekeeper shall not officiate at a show that is not licensed by the department.~~
- ~~(3) A referee or judge shall not officiate or accept an assignment to officiate when that assignment may tend to impair the referee's or judge's independence of judgment or action in the performance of the referee's or judge's duties. Violation of this subrule renders the violator subject to the penalties set forth in section 602 of the act.~~
- ~~(4) Officials shall be paid by the licensed promoter.~~
- ~~(5) A judge shall be seated midway between the ring posts of the ring, but not on the same side as another judge, and shall have an unimpaired view of the ring.~~
- ~~(6) A referee shall not be assigned to officiate more than 32 scheduled rounds in 1 day, except when substituting for another referee who is incapacitated.~~
- ~~(7) A referee shall not wear jewelry that might cause injury to the contestants. Glasses, if worn, shall be protective athletic glasses or goggles with plastic lenses and a secure elastic band around the back of the head.~~
- ~~(8) Referees, seconds working in the corners, department representatives, and physicians shall wear rubber gloves in the performance of their duties.~~
- ~~(9) An official shall not be under the influence of alcohol or drugs while performing his or her duties. The department may request an official to be tested for the presence of alcohol or drugs in the same manner that contestants are tested. Violation of this subrule or refusal to be tested shall subject the official to the penalties set forth in section 602 of the act.~~
- ~~(10) Ring officials shall avoid even the appearance of partiality. A ring official shall not be licensed as a matchmaker, manager, or promoter. A ring official shall not own all or any portion of a contract of a boxer.~~

**R 339.3210a Conduct during shows. Rescinded.**

~~Rule 210a. (1) Beginning 1 minute before the first round begins, only the referee, contestants, and the chief second may be in the ring. The referee shall clear the ring of all other individuals.~~

- ~~(2) Once a contest has begun, only referees, contestants, seconds, department representatives, physicians, and ring card persons shall be allowed in the ring.~~
- ~~(3) The referee may order that the ring and ringside area be cleared, at any time before, during, or after a contest, of any individual who is not authorized to be present in the ring or ringside area. The department representative may order the clearing of the ringside area.~~
- ~~(4) If any individual refuses to clear the ring or ringside area when ordered to do so by the referee or the department representative, disputes a decision by an official, or encourages spectators to object to a decision either verbally or physically, the individual shall be deemed to be engaged in disruptive conduct. The referee, on his or her own initiative or at the request of the department representative, may stop a contest at any time until the disruptive conduct ceases. If the individual involved in disruptive~~

~~conduct is the manager or second of a contestant, the referee may order points deducted from that contestant's score or disqualify the contestant. If the conduct occurred after the decision was announced, the department representative shall file complaints against any licensed individual involved in the disruptive conduct. A licensee who engaged in disruptive conduct shall be subject to the penalties set forth in section 602 of the act.~~

**R 339.3211 Referees. Rescinded.**

~~Rule 211. (1) The chief official of a contest shall be the referee. The referee shall decide all questions arising in the ring during a contest that are not specifically addressed in these rules.~~

~~(2) The referee shall, before each contest begins, determine the name and location of the physician assigned to officiate at the contest and each contestant's chief second.~~

~~(3) At the beginning of each contest, the referee shall summon the contestants and their chief seconds together for final instructions. After receiving the instructions, the contestants shall shake hands and retire to their respective corners. The contestants shall not shake hands again until the beginning of the last round.~~

~~(4) Where difficulties arise concerning language, the referee shall make sure that the contestant understands the final instructions through an interpreter and shall use suitable gestures and signs during the contest.~~

~~(5) Except for the contestants, the referee, and the physician when summoned by the referee, a person shall not enter the ring, including the apron of the ring, during the progress of a round.~~

~~(6) If a contestant's manager or second steps into the ring or onto the apron of the ring during a round, the fight shall be halted and the referee may eject the manager or second from the ringside working area. If the manager or second steps into the ring or onto the apron a second time during the contest, the fight may be stopped and the decision awarded to the contestant's opponent due to disqualification.~~

~~(7) A referee shall inspect a contestant's gloves and a contestant's body to determine whether a foreign substance has been applied.~~

~~(8) A referee shall not touch a contestant during a contest except when 1 or both contestants fail to obey the break command.~~

**R 339.3212 Stalling or faking. Rescinded.**

~~Rule 212. (1) A referee shall warn a contestant if the referee believes the contestant is stalling or faking. If, after proper warning, the referee determines the contestant is continuing to stall or pull his or her punches, the referee shall stop the contest at the end of the round.~~

~~(2) A referee may consult the judges as to whether or not the contestant is stalling or faking and shall abide by a majority decision of the judges.~~

~~(3) If it is determined that either or both contestants are stalling or faking, or if the contestant refuses to fight, the contest shall be terminated and announced as no contest.~~

~~(4) A contestant who falls down without being struck shall be immediately examined by a physician. After conferring with the physician, the referee may disqualify the contestant.~~

**R 339.3213 Injuries and cuts. Rescinded.**

~~Rule 213. (1) When an injury or cut is produced by a fair blow and because of the severity of the blow the contest cannot continue, the injured contestant shall be declared the loser by technical knockout.~~

~~(2) If a contestant intentionally fouls his or her opponent and an injury or cut is produced, and if, due to the severity of the injury or cut, the contestant cannot continue, the contestant who commits the foul shall be declared the loser by disqualification.~~

- ~~(3) If a contestant receives an intentional butt or foul and the contest can continue, the referee shall penalize the contestant who commits the foul by deducting points based upon the severity of the offense. The referee shall notify the judges that the injury or cut has been produced by an intentional unfair blow. If in the subsequent rounds the same injury or cut becomes so severe that the contest has to be suspended, the decision will be awarded as follows:~~
- ~~(a) A technical draw if the injured contestant is behind on points or even on a majority of the scorecards.~~
- ~~(b) A technical decision to the injured contestant if the injured contestant is ahead on points on a majority of the scorecards.~~
- ~~(4) If a contestant injures himself or herself trying to foul his or her opponent, the referee shall not take any action in the contestant's favor, and the injury shall be considered to be the result of a fair blow from the contestant's opponent.~~
- ~~(5) If a contestant is accidentally butted in a contest and can continue, the referee shall stop the action to inform the judges and acknowledge the butt. If in subsequent rounds, as a result of legal blows, the accidental butt injury worsens, the referee shall stop the contest and declare a technical decision with the winner being the contestant who is ahead on points on a majority of the scorecards. If a contestant is accidentally butted in a contest and an injury or cut is produced and, due to the severity of the injury or cut, the contestant cannot continue, the referee shall rule as follows:~~
- ~~(a) If the contest is stopped before 1/2 of the scheduled rounds have been completed, call the contest a technical draw.~~
- ~~(b) If the contest is stopped after 1/2 of the scheduled rounds have been completed, declare that the winner is the contestant who has a lead in points on a majority of the scorecards before the round of injury.~~
- ~~(6) If, in the opinion of the referee, a contestant has suffered a dangerous cut or injury, the referee may stop the contest temporarily to summon the physician. If the physician recommends that the contestant can continue, the referee may order the contest to be continued. If the physician recommends that the contestant should not continue, then the referee shall order the contest to be terminated.~~
- ~~(7) A fight shall not be terminated because of a low blow. The referee may give a contestant not more than 5 minutes if the referee believes a foul has been committed. Each contestant shall be instructed to return to his or her respective corner by the referee. The contestants may sit on a stool and have their mouthpieces removed. After removing their contestant's mouthpiece, the seconds shall return to their seats. The seconds shall not coach, administer water, or in any other way attend to their contestant, except to replace the mouthpiece when the round is ready to resume.~~
- ~~(8) If a contestant is knocked down or given a standing mandatory 8 count or a combination of either occurs 3 times in 1 round, the contest shall be stopped and a technical knockout shall be awarded to the opponent. The physician shall immediately enter the ring and examine the losing contestant.~~
- ~~(9) A physician shall immediately examine and administer aid to a contestant who is knocked out or injured.~~
- ~~(10) When a contestant is knocked out or incapacitated, the referee or second shall not handle the contestant, except for the removal of a mouthpiece, unless directed by the physician to do so.~~
- ~~(11) A contestant shall not refuse to be examined by a physician.~~
- ~~(12) A contestant who has been knocked out shall not leave the site of the show until 1 hour has elapsed from the time of the examination or until released by the physician.~~
- ~~(13) A physician shall file a written report with the department on each contestant who has been knocked out or injured.~~

**R 339.3214 Knockouts. Rescinded.**

Rule 214. (1) A contestant who is knocked down shall take a minimum mandatory count of 8.

- ~~(2) If a contestant is dazed by a blow and, in the referee's opinion, is unable to defend himself or herself, the referee shall give a standing mandatory count of 8 or stop the contest. If on the count of 8 the contestant, in the referee's opinion, is unable to continue, the referee may count him or her out on his or her feet or stop the contest on the count of 8.~~
- ~~(3) In the event of a knockdown, the timekeeper shall immediately start the count loud enough to be heard by the referee, who, after waving the opponent to the farthest neutral corner, shall pick up the count from the timekeeper and proceed from there. The referee shall stop the count if the opponent fails to remain in the corner. The count shall be resumed when the opponent has returned to the corner.~~
- ~~(4) The timekeeper shall signal the count to the referee.~~
- ~~(5) If the contestant taking the count is still down when the referee calls the count of 10, the referee shall wave both arms to indicate that the contestant has been knocked out. The referee shall summon the physician and shall then raise the opponent's hand as the winner. The referee's count is the official count.~~
- ~~(6) If at the end of a round a contestant is down and the referee is in the process of counting, the gong indicating the end of the round shall not be sounded, except for the last round. The gong shall only be sounded when the referee gives the command to box indicating the continuation of the contest.~~
- ~~(7) In the final round, the timekeeper's gong shall terminate the fight.~~
- ~~(8) A technical knockout decision shall be awarded to the opponent if a contestant is unable or refuses to continue when the gong sounds to begin the next round. The decision shall be awarded in the round started by the gong.~~
- ~~(9) The referee and timekeeper shall resume their count at the point it was suspended if a contestant arises before the count of 10 is reached and falls down immediately without being struck.~~
- ~~(10) If both contestants go down at the same time, counting will be continued as long as 1 of them is still down or until the referee or the ringside physician determines that 1 or both of the contestants need immediate medical attention. If both contestants remain down until the count of 10, the contest will be stopped and the decision shall be scored as a double knockout.~~

**R 339.3215 Contestant outside of ring ropes. Rescinded.**

- ~~Rule 215. (1) A contestant who has been knocked, wrestled, or pushed, or who has fallen, through the ropes during a contest shall not be helped back into the ring and shall not be hindered in any way by anyone when trying to reenter the ring.~~
- ~~(2) When 1 contestant has fallen through the ropes, the other contestant shall retire to the farthest neutral corner and stay there until ordered to continue the contest by the referee.~~
- ~~(3) The referee shall warn the contestant that the contestant has 20 seconds to return to the ring unassisted. After the warning by the referee, the referee shall begin the count, which shall be loud enough to be heard by the contestant.~~
- ~~(4) If the contestant enters the ring before the count of 20, the contest shall be resumed.~~
- ~~(5) If the contestant fails to enter the ring before the count of 20, the contestant shall be considered knocked out.~~

**R 339.3216 Scoring; "10-point must system" defined. Rescinded.**

- ~~Rule 216. (1) Officials who score a contest shall use the 10-point must system.~~
- ~~(2) For the purpose of this rule, the "10-point must system" means that the winner of each round receives 10 points as determined by clean hitting, effective aggressiveness, defense, and ring generalship. The loser of the round shall receive less than 10 points. If the round is even, each contestant receives 10 points. Fractions of points shall not be given.~~

- ~~(3) Officials who score the contest shall mark their cards in ink or in indelible pencil at the end of each round.~~
- ~~(4) Officials who score the contest shall sign their scorecards.~~
- ~~(5) Except as provided in subrule (6) of this rule, at the conclusion of each contest, the judges shall total the points for each contestant and indicate the winner by writing the winner's name at the designated area on the scorecard and circling the same name where it appears on the top of the scorecard.~~
- ~~(6) When a contest is scored on individual score sheets for each round, the referee shall, at the end of a round, collect the score sheet for the round from each judge and shall give the score sheets to the department representative for computation.~~
- ~~(7) Referees and judges shall be discreet at all times and shall not discuss their decisions with anyone during a show.~~
- ~~(8) A decision that is rendered at the termination of a boxing contest shall not be changed without a hearing, unless it is determined that a computation of the scorecards shows a clerical or mathematical error giving the decision to the wrong contestant. If such an error is found, the decision may be changed by the department representative.~~
- ~~(9) The referee shall collect the score sheets from the judges and give them to the department representative for checking. After the sheets have been checked, the referee shall collect them and give them to the announcer, who shall announce the decision to the spectators.~~
- ~~(10) After a contest, the department representative shall collect and maintain the scorecards.~~
- ~~(11) If a referee becomes incapacitated and is unable to complete a boxing contest, a time-out shall be called and the other referee who is assigned to the show shall assume the duties of the referee.~~
- ~~(12) If a judge becomes incapacitated and is unable to complete the scoring of a boxing contest, a time-out shall be called and an alternate licensed judge shall immediately be assigned to score the contest from the point at which he or she assumed the duties of a judge. If the incapacity of a judge is not noticed during a round, the referee shall score that round and the substitute judge shall score all subsequent rounds.~~

**R 339.3217 Fouls. Rescinded.**

~~Rule 217. A referee may disqualify or penalize a contestant by deducting points from a round for the following fouls:~~

- ~~(a) Holding an opponent or deliberately maintaining a clinch.~~
- ~~(b) Hitting with the head, shoulder, elbow, wrist, inside or butt of the hand, or the knee.~~
- ~~(c) Hitting or gouging with an open glove.~~
- ~~(d) Wrestling, spinning, or roughing at the ropes.~~
- ~~(e) Gripping at the ropes when avoiding or throwing punches.~~
- ~~(f) Intentionally striking at the part of the body that is over the kidneys.~~
- ~~(g) Using a rabbit punch or hitting an opponent at the base of the opponent's skull.~~
- ~~(h) Hitting on the break or after the gong has sounded.~~
- ~~(i) Hitting an opponent who is down or rising after being down.~~
- ~~(j) Hitting below the beltline.~~
- ~~(k) Holding an opponent with one hand and hitting with the other.~~
- ~~(l) Purposely going down without being hit or to avoid a blow.~~
- ~~(m) Using abusive language in the ring.~~
- ~~(n) Unsportsmanlike conduct on the part of the contestant or a second whether before, during, or after a round.~~
- ~~(o) Intentionally spitting out a mouthpiece.~~
- ~~(p) Any backhand blow.~~

**R 339.3218 Penalties for fouling. Rescinded.**

~~Rule 218. (1) A referee who penalizes a contestant pursuant to these rules shall notify the judges at the time of the infraction to deduct specified points from their scorecards.~~

~~(2) A contestant committing a deliberate foul, in addition to the deduction of points, may be subject to the penalties set forth in section 602 of the act.~~

~~(3) A judge shall not deduct points pursuant to R 339.3217 unless instructed to do so by the referee.~~

~~(4) A complaint shall be filed by the department against a contestant disqualified on a foul.~~

**R 339.3219 Physical examination. Rescinded.**

~~Rule 219. (1) As required by section 810 of the act, not more than 8 hours before a show a physician shall certify that each contestant is in proper physical condition to participate in the show by taking a detailed medical history and examining all of the following:~~

~~(a) Eyes.~~

~~(b) Teeth.~~

~~(c) Jaws.~~

~~(d) Neck.~~

~~(e) Chest.~~

~~(f) Ears.~~

~~(g) Nose.~~

~~(h) Throat.~~

~~(i) Skin.~~

~~(j) Scalp.~~

~~(k) Head.~~

~~(l) Abdomen.~~

~~(m) Cardiopulmonary status.~~

~~(n) Neurological, muscular, and skeletal systems.~~

~~(o) Abdomen and breasts, if a female contestant.~~

~~(p) Pelvis.~~

~~(2) As required by section 811 of the act, within 2 hours before a contestant enters the ring, the physician shall examine each contestant, confirming the results of the certification examination required by subrule (1) of this rule. The physician may also test for the presence of alcohol or drugs in the body.~~

~~(3) If upon examination a contestant is determined to be unfit for competition, the contestant shall be prohibited from competing and the department representative shall be notified.~~

~~(4) The physician shall certify, in writing, those contestants who are in good physical condition to compete.~~

~~(5) Before a contest, a female contestant shall provide the ringside physician with the results of a pregnancy test performed on the contestant within the previous 14 days. If the results of the pregnancy test are positive, the contestant shall be prohibited from competing and the department representative shall be notified.~~

~~(6) A contest shall not begin until a physician and an attended ambulance are present. The physician shall not leave until the decision in the final contest has been announced and all injured contestants have been attended to.~~

~~(7) The physician shall sit near the steps into the ring and the contest shall not begin until the physician is seated. The physician shall remain at that location for the entire contest.~~

**R 339.3220 Timekeepers. Rescinded.**

~~Rule 220. (1) A timekeeper shall indicate the beginning and end of each round by the gong.  
(2) A timekeeper shall possess a whistle and a stopwatch.  
(3) Ten seconds before the beginning of each round, the timekeeper shall warn the contestants' seconds of the time by blowing a whistle.  
(4) If a contest terminates before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.~~

**R 339.3221 Announcer. Rescinded.**

~~Rule 221. (1) At the beginning of a show, the announcer shall announce that the contests are under the auspices of the Michigan athletic board of control.  
(2) The announcer shall announce the names of the referee, judges, and timekeepers when the competitions are about to begin and also changes made in officials as the show progresses.  
(3) The announcer shall announce the names of all contestants, and all of the following information with respect to each contestant:  
(a) Weight.  
(b) Professional record.  
(c) City and state of residence.  
(d) Country of origin if not a citizen.~~

**R 339.3222 Seconds. Rescinded.**

~~Rule 222. (1) A contestant shall not have more than 4 seconds, 1 of whom shall be designated as the chief second. The chief second shall be responsible for the conduct in the corner during the course of a contest.  
During the rest period, 1 second shall be allowed inside the ring, 2 seconds shall be allowed on the apron, and 1 second shall be allowed on the floor.  
(2) A contestant's chief second shall not coach or assist the contestant during a round and shall remain seated during the round.  
(3) A second shall not spray or throw water on a contestant during a round.  
(4) A contestant's corner shall not heckle or in any manner annoy the opponent of the contestant or the referee or throw any object into the ring.  
(5) A second shall not enter the ring until the timekeeper has indicated the end of a round.  
(6) A second shall leave the ring at the timekeeper's whistle and shall clear the ring platform of all obstructions at the sound of the gong indicating the beginning of a round. Articles shall not be placed on the ring floor until the round has ended or the contest has terminated.  
(7) A referee may eject a second from a ring corner for violations of the provisions of subrules (3) and (4) of this rule and may have judges deduct points from a contestant's score for the actions of the contestant's corner.  
(8) A second may indicate to the referee that the second's contestant cannot continue and that the contest should be stopped. Only verbal notification or hand signals may be used; the throwing of a towel into the ring does not indicate the defeat of the second's contestant.  
(9) A second shall not administer alcoholic beverages, narcotics, or stimulants to a contestant, pour excessive water on the body of a contestant, or place ice in the trunks or protective cup of a contestant during the progress of a contest.~~

**R 339.3223 Contests involving opponents of opposite sex prohibited. Rescinded.**

~~Rule 223. Contests involving opponents of the opposite sex are prohibited.~~

**R 339.3224 Identification; passports. Rescinded.**

~~Rule 224. (1) Each contestant shall provide 2 pieces of identification, 1 of which shall have a photo of the contestant, to the department representative before participation in a contest.~~

~~(2) Boxers who reside in Michigan shall present a passport as 1 of the pieces of identification required under subrule (1) of this rule. The passport shall be issued by the department at the time the boxer receives his or her original license.~~

~~(3) The passport shall contain all of the following information:~~

~~(a) The boxer's license number.~~

~~(b) The boxer's name and address.~~

~~(c) The boxer's social security number.~~

~~(d) A photograph of the boxer.~~

~~(e) The boxer's height and weight.~~

~~(f) A record of each fight in which the boxer has participated.~~

~~(4) The department shall honor similar passport records from other jurisdictions.~~

~~(5) Unless otherwise approved by a department representative, a boxer will not be allowed to compete if his or her passport is incomplete or if the boxer fails to present the passport to the department representative before the contest.~~

**R 339.3225 Dress for contestants. Rescinded.**

~~Rule 225. (1) Contestants shall be required to wear all of the following:~~

~~(a) Trunks that are belted at the contestant's waistline. For the purposes of this subrule, the waistline shall be defined as an imaginary horizontal line drawn through the navel to the top of the hips. Trunks shall not have any buckles or other ornaments on them that might injure a contestant or referee.~~

~~(b) A foul-proof protector for male contestants, and a pelvic area protector and breast protector for female contestants.~~

~~(c) Shoes which are made of soft material and which do not have spikes, cleats, or heels.~~

~~(d) A fitted mouthpiece, which shall be examined by the ring physician.~~

~~(e) Gloves meeting the requirements of R 339.3206.~~

~~(2) In addition to the clothing required pursuant to the provisions of subrule (1) of this rule, a female contestant shall wear a body shirt or blouse that does not have buttons, buckles, or ornaments.~~

~~(3) A contestant's hair shall be cut or secured so as not to interfere with the contestant's vision.~~

~~(4) A contestant shall not wear corrective lenses into the ring.~~

**R 339.3226 Failure to compete. Rescinded.**

~~Rule 226. A contestant's manager shall immediately notify the department if, due to illness or injury, the contestant is unable to compete in a contest for which the contestant has contracted to appear. The department may require that the contestant be examined by a physician.~~

**R 339.3227 Procedure after knockouts or sustained damaging head blows. Rescinded.**

~~Rule 227. (1) It shall be the responsibility of the boxer's manager and seconds to assure that the boxer complies with the provisions of this rule. Violations of this rule shall be grounds for disciplinary action under section 602 of the act against the boxer, the boxer's manager, or the boxer's seconds.~~

~~(2) A boxer who has lost by a technical knockout shall not compete again for a period of 30 calendar days or until the boxer has submitted the results of a physical examination in accordance with section 810(2) of the act. The physical examination shall meet the requirements of R 339.3219.~~

~~(3) The ringside physician shall examine a boxer who has been knocked out in a contest or a boxer whose fight has been stopped by the referee because the boxer received hard blows to the head that~~



~~made him or her defenseless or incapable of continuing immediately after the knockout or stoppage. The ringside physician may recommend post fight neurological examinations, which may include computerized axial tomography (cat) scans or magnetic resonance imaging (mri), to be performed on the boxer immediately after the boxer leaves the location of the show. In the event such recommendations are made, and the results of such examinations are not received by the department within 24 hours of their completion, the boxer shall be ineligible to compete until such reports are received and until certification is given by a physician that the boxer is fit to compete after an examination pursuant to section 810(2) of the act.~~

~~(4) All medical reports that are submitted to the department relative to a physical examination or the condition of a boxer shall be confidential and shall be open to examination only by the department, the board, and the licensed boxer upon the boxer's request to examine the records or upon the order of a court of competent jurisdiction.~~

~~(5) A boxer who has been knocked out or who received excessive hard blows to the head that made him or her defenseless or incapable of continuing shall be ineligible to compete for a period of not less than 60 days.~~

~~(6) A boxer who has lost 6 consecutive fights shall be ineligible to compete again until the board has reviewed the results of the 6 fights and the boxer has submitted to a physical examination by a physician who has certified that the boxer is fit to compete.~~

~~(7) A boxer who has had cardiac surgery shall be ineligible to compete until the boxer has submitted to a medical examination by a cardiovascular surgeon who has certified that the boxer is fit to compete.~~

~~(8) A boxer who has suffered a detached retina shall be ineligible to compete until the boxer has submitted to a medical examination by an ophthalmologist who has certified that the boxer is fit to compete.~~

~~(9) A boxer who is prohibited from boxing in other states or jurisdictions due to medical reasons may be prohibited from boxing in Michigan in accordance with these rules. In considering prohibiting a boxer from boxing in this state, the boxer's entire professional record shall be considered, regardless of the state or country in which the boxer's fights occurred.~~

~~(10) A boxer or the boxer's manager shall report any change in a boxer's medical condition that may affect the boxer's ability to fight safely. The department may, at any time, require current medical information on any boxer.~~

**R 339.3228 Waiting period. Rescinded.**

~~Rule 228. The following number of days shall elapse before a boxer who has competed anywhere in a contest may participate in another contest:~~

~~Length of Contest Required Interval~~

~~(In Scheduled Rounds) (In Days)~~

~~4.....3~~

~~5-9.....5~~

~~10-12.....7~~

~~13-15.....14~~

**R 339.3229 Championships and international contests; adoption of rules by reference. Rescinded.**

~~Rule 229. (1) For a championship contest or an international contest that is held in this state, the board adopts by reference in these rules the rules of the world boxing council, the world boxing association, the United States boxing association, the international boxing federation, the world boxing organization, and the north American boxing federation as applicable to the specific championship or international contest and the fees paid to officials for such championships and contests. Copies of the adopted matter~~

~~are available for inspection at the office of the board and for purchase from the Athletic Board of Control, 611 W. Ottawa St., Lansing, Michigan 48933. Copies of the world boxing council rules may be obtained from the World Boxing Council, Office of the President, Genova 33 Desp 503, Col. Juarez, 06600 Mexico, D.F. Mexico, at no charge. Copies of the world boxing association rules may be obtained from the World Boxing~~

~~Association, Centro Commercial Ciudad Turmero, Local No. 21, Piso No. 2, Calle Petion e/c Urdaneta, Turmero 21156, Estado, Argua — Venezuela, at no charge. Copies of the United States boxing association and the international boxing federation rules may be obtained from IBF/USBA, 134 Evergreen Place, 9th Floor, East Orange, New Jersey 07018, at a cost as of the time of adoption of these rules of \$10.00. Copies of the north~~

~~American boxing federation rules may be obtained from the North American Boxing Federation, P.O. Box 1437, Honolulu, Hawaii 96806, at no charge. Copies of the world boxing organization rules may be obtained from the World Boxing Organization, Post Office Box 70171, San Juan, Puerto Rico 00936, at no charge.~~

~~(2) At least once a year, the board shall establish state ratings in each weight division of up to 10 boxers in such division, with all boxers being designated as contenders. Ratings shall be available to other boxing commissions, promoters, the press, and all other interested persons.~~

~~(3) A state champion shall attempt to defend the championship against a challenger contender who has been ranked by the ratings committee of the board as 1 of the 10 highest ranked boxers in the champion's weight class.~~

~~If a state champion does not defend the championship within 18 months of winning the championship, the champion shall forfeit the title and the board shall declare the title vacant.~~

~~(4) If a state champion achieves the status of champion from the United States boxing association, the north American boxing federation, the world boxing association, the world boxing council, the world boxing organization, or the international boxing federation, the state champion shall relinquish his or her state championship and the state championship title will become vacant.~~

~~(5) If the state champion is permanently unable to physically qualify to defend his or her title, the champion shall forfeit his or her championship and the board shall declare the title vacant.~~

~~(6) If a state championship title becomes vacant, the highest rated available contenders in that division shall box for the championship.~~

~~(7) If a state championship contest is declared a draw, the championship shall be retained by the defending champion.~~

~~(8) In each defense of his or her title, the state champion shall be at the weight required by the class for which the state champion holds the title. Once a fight has been approved by the department as a championship fight, both fighters shall make weight. A championship may be lost because of the inability to make weight, but a championship shall only be won by a contender in a contest.~~

~~(9) Only those boxers who have resided in Michigan for a period of not less than 30 days shall be eligible for rating by the board and participation in a state championship fight. A champion who no longer resides in Michigan shall be deemed to have forfeited the championship and the board shall declare the title vacant.~~

#### **R 339.3230 Managers. Rescinded.**

~~Rule 230. (1) A manager shall not contract for a contest that involves a minor unless he or she has a power of attorney or the approval of the boxer's legal guardian.~~

~~(2) A manager shall not sign a contract for the appearance of a boxer if the manager does not have the boxer under contract.~~

~~(3) A licensed manager may act as a second without a second's license; however, a manager shall not hold a license as a referee, judge, timekeeper, or matchmaker.~~

R 339.3231 Matchmakers and promoters; liability for lack of judgment in arranging matches; contract restrictions. **Rescinded.**

~~Rule 231. (1) The promoter and matchmaker shall be held responsible for a match in which 1 of the boxers is disproportionately outclassed. Persistent lack of judgment in arranging matches shall be regarded as sufficient grounds for disciplinary action pursuant to the provisions of section 604 of the act.~~

~~(2) A promoter shall not own a contract or a portion of a contract of, or receive proceeds from a contract with, any boxer who is boxing in one of the promoter's productions. A matchmaker shall not own a contract or a portion of a contract of, or receive proceeds from a contract with, any boxer for whom the matchmaker arranges matches.~~

~~(3) A matchmaker may be licensed as a promoter. A promoter may be licensed as a matchmaker. However, neither a promoter nor a matchmaker shall be licensed as a referee, timekeeper, judge, boxer, or manager.~~

R 339.3232 Filing of documents by promoter; publicizing shows; contract requirements; promoter responsible for paying insurance deductible. **Rescinded.**

~~Rule 232. (1) A promoter shall file, with the department, a written request to hold a show not less than 30 days, or not less than 7 days for televised shows, before the date of the proposed show. The request shall indicate whether or not the show is to be televised.~~

~~(2) Not later than at the weigh in, a promoter shall file with the department true copies of the promoter's contracts with the boxers for all contests.~~

~~(3) A matchmaker shall be responsible for verifying the identity, ring record, eligibility, and suspensions of each boxer. A promoter shall be held responsible for the accuracy of the names and records of each of the participating boxers in all publicity or promotional material.~~

~~(4) A boxer shall use his or her legal name to sign a contract; however, a boxer who is licensed under another name may sign the contract using his or her licensed name if the boxer's legal name appears in the body of the contract as the name under which the boxer is otherwise known.~~

~~(5) All contracts shall be between a promoter and a boxer. There shall not be a contract between the promoter and a manager. However, a contract may be signed by a boxer's manager on behalf of the boxer. If a boxer does not have a licensed manager, the boxer shall sign the contract.~~

~~(6) The contract that is filed with the department shall embody all of the agreements between the parties. Secret contracts which contradict the terms of the contracts that are filed with the department are prohibited.~~

~~(7) The contract between a promoter and a boxer shall be for the use of the boxer's skills in a contest and shall not require the boxer to sell tickets in order to be paid for his or her services.~~

~~(8) If the insurance provided by the promoter to meet the requirements of section 807 of the act has a requirement for a deductible amount to be paid, the promoter shall be responsible for paying the deductible amount.~~

R 339.3233 Charitable ticket sales. **Rescinded.**

~~Rule 233. A promoter who collects contributions for a charitable organization licensed under the provisions of the charitable organizations and solicitations act, Act No. 169 of the Public Acts of 1975, as amended, being S400.271 et seq. of the Michigan Compiled Laws, shall comply with the provisions of that act and shall promptly transmit funds collected to the charitable organization. A promoter who is~~

~~found to have violated the provisions of the charitable organizations and solicitations act shall be subject to the penalties set forth in section 602 of the act.~~

**R 339.3234 Compensation; expiration date. Rescinded.**

~~Rule 234. Each official assigned to officiate at a professional boxing contest shall be paid in accordance with the fees listed in table 1 as follows:~~

<del>Two or One — More Gross Receipts Physician</del>	<del>Referee</del>	<del>Referees</del>	<del>Judges</del>	<del>Announcer</del>	<del>Timekeeper</del>
<del>\$ .00 to 2,500.99</del>	<del>\$50.00</del>	<del>\$50.00</del>	<del>\$25.00</del>	<del>\$25.00</del>	<del>\$20.00</del>
<del>2,501.00 to 7500.99</del>	<del>\$75.00</del>	<del>\$75.00</del>	<del>\$35.00</del>	<del>\$35.00</del>	<del>\$25.00</del>
<del>7501.00 to 15,000.00</del>	<del>\$125.00</del>	<del>\$75.00</del>	<del>\$50.00</del>	<del>\$50.00</del>	<del>\$25.00</del>
<del>15,001.00 to 25,000.99</del>	<del>\$200.00</del>	<del>\$100.00</del>	<del>\$75.00</del>	<del>\$75.00</del>	<del>\$25.00</del>
<del>25,001.00 to 50,000.00</del>	<del>\$300.00</del>	<del>\$150.00</del>	<del>\$100.00</del>	<del>\$100.00</del>	<del>\$50.00</del>
<del>50,000.01 to 100,000.00</del>	<del>\$500.00</del>	<del>\$250.00</del>	<del>\$125.00</del>	<del>\$125.00</del>	<del>\$50.00</del>
<del>Over 100,000.00</del>	<del>\$700.00</del>	<del>\$350.00</del>	<del>\$150.00</del>	<del>\$150.00</del>	<del>\$75.00</del>

**R 339.3235 Elimination tournaments. Rescinded.**

~~Rule 235. An elimination tournament is a tournament in which 2 contestants box one another, the loser is eliminated from the tournament, and the tournament continues with winners from the various contests competing until only 1 contestant remains undefeated in the weight division. An elimination tournament shall be in compliance with all of the rules pertaining to professional boxing.~~

**R 339.3236 Drug testing. Rescinded.**

~~Rule 236. (1) The department, the department representative, or the ringside physician may request that a boxer or assigned official take a test or submit to an examination designed to measure the presence of alcohol or drugs prior to a contest. The examination shall be made at a facility acceptable to the~~

~~department. The promoter shall be responsible for the cost of testing boxers. An official shall be responsible for paying the cost of his or her examination.~~

~~(2) If such a test or examination results in a finding of the presence of a drug or alcohol or if the boxer or official refuses to submit to a test or refuses or is unable to provide a sample of body fluids for a test, a complaint shall be filed under the procedures of article 5 of the act. If a determination is made that the boxer or official is subject to disciplinary action, the board may impose the following penalties pursuant to the provisions of article 6 of the act:~~

~~(a) For a first violation, suspension for 90 days.~~

~~(b) For a second violation, a 1-year suspension.~~

~~(c) For a third violation, revocation of licensure.~~

~~(3) At the completion of a suspension ordered by the board under the provisions of subrule (2)(a) and (b) of this rule based on a finding of the presence of drugs, a boxer or official shall submit to a test of body fluids in the presence of a department representative. The results of the test shall be negative for all drugs tested before a boxer is allowed to box again or an official is assigned to officiate again.~~

~~(4) A boxer who is disciplined pursuant to the provisions of this rule and who was the winner of a contest shall be disqualified and the decision of the contest shall be changed to "no contest."~~

~~(5) The results of a contest shall remain unchanged if a boxer who is disciplined pursuant to the provisions of this rule was the loser of the contest.~~

~~(6) Boxers who are prohibited, restrained, disqualified, or are otherwise ineligible to compete in other states or jurisdictions due to disciplinary action that involves the use of drugs shall be prohibited from boxing in Michigan until such time as the period of prohibition, restraint, disqualification, or ineligibility is completed or removed. However, a boxer with an active suspension in any state or jurisdiction may be required to take and pass a drug test before being allowed to compete in Michigan.~~

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**PROPOSED ADMINISTRATIVE RULES**

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**ORR # 2004-060**

**DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
DIRECTOR'S OFFICE  
BOXING**

Filed with the Secretary of State on  
These rules take effect immediately upon filing with the Secretary of State

(By authority conferred on the department of labor and economic growth by 2004 PA 403, MCL 338.3601)

R 339.101, R 339.102, R 339.201, R 339.202, R 339.203, R 339.204, R 339.205, R 339.206, R 339.207, R 339.209, R 339.211, R 339.213, R 339.215, R 339.217, R 339.219, R 339.221, R 339.223, R 339.225, R 339.227, R 339.229, R 339.231, R 339.233, R 339.235, R 339.237, R 339.239, R 339.241, R 339.243, R 339.245, R 339.247, R 339.249, R 339.251, R 339.253, R 339.255, R 339.257, R 339.259, R 339.261, R 339.263, R 339.265, R 339.267, R 339.269, R 339.301, R 339.303, R 339.401, and R 339.403 are added to the Michigan Administrative Code as follows:

**PART 1. GENERAL PROVISIONS**

**R 339.101 Definitions.**

Rule 101. (1) As used in these rules:

- (a) "Act" means 2004 PA 403, MCL 338.3601, and known as the boxing regulatory act.
- (b) "Contest" means an individual bout between 2 boxers.
- (c) "Department representative" means an individual employed by or under contract with the department who is assigned to assure compliance with the law and rules at a boxing show.
- (d) "Down" means when any part of a contestant's body, except the contestant's feet, touches the ring floor, or when the contestant is hanging helplessly over the ropes as a result of a legal blow as ruled by the referee.
- (e) "Drug" means a controlled substance as regulated pursuant under sections 7101 to 7231 of 1978 PA 368, MCL 333.7101 to 333.7231.
- (f) "Gong" means a bell, horn, or buzzer that has a clear tone loud enough for the contestants and referee to hear.
- (g) "Mandatory count of 8" means a required count of 8 that is given by a referee to a contestant who has been knocked down.
- (h) "No contest" means that neither contestant wins the contest.
- "Reinstatement" means the granting of a license to a person whose license has been revoked or suspended as a result of discipline.
- (j) "Relicensure" means the granting of a license to a person whose license has lapsed for failure to renew the license within 60 days after the expiration date.
- (k) "Show" means the program of boxing planned for a specific date by the promoter and includes 1 or more individual contests.

- (l) "Stalling and faking" means that a contestant is pulling his or her punches or holding an opponent or deliberately maintaining a clinch.
- (m) "Standing mandatory count of 8" means a count of 8 that is given at the discretion of a referee to a contestant who has been dazed by a blow and is unable to defend himself or herself.
- (2) The terms defined in section 10 of the act have the same meanings when used in these rules.

R 339.102 Commission meetings.

Rule 102 Commission meetings shall be conducted in accordance with 1975 PA 267, MCL 15.261, the Open Meetings Act, and are open to the public.

PART 2. PROFESSIONAL BOXING

R 339.201 Professional boxing weights.

Rule 201. (1) There shall be not more than a 7-pound weight differential for contestants weighing 126 to 190 pounds, and not more than a 5-pound weight differential for contestants weighing up to 126 pounds. The weight differential applicable to the lowest weight boxer applies.

(2) The department shall not allow a contest in which the contestants are not fairly matched. In determining if contestants are fairly matched, the department shall consider all of the following factors with respect to the contestants:

- (a) The win-loss record of the boxers.
- (b) The weight differential.
- (c) The caliber of opponents.
- (d) Each boxer's number of fights.

R 339.202 Weighing in.

Rule 202. (1) Within 24 hours, or 48 hours for the heavyweight class, before the start of a show, the department representative shall weigh in each contestant in the presence of his or her opponent, unless the opponent is properly excused from appearing.

(2) Contestants shall appear at the time designated for weighing in unless properly excused from appearing.

(3) Only those contestants who have been previously approved for the show shall be permitted to weigh in.

(4) If the weigh-in is held on the day of the show, a contestant who loses more than 2 pounds in order to make weight and be reweighed shall not compete without the approval of either the physician or the department representative in consultation with the physician.

R 339.203 Licensing requirements; boxers.

Rule 203. (1) A boxer may be licensed as a manager or a second, but shall not be licensed as a timekeeper, judge, referee, or matchmaker.

(2) Contestants shall be licensed at the time of the contest.

R 339.204 Number of rounds.

Rule 204. (1) A professional boxing contest shall consist of not less than 4 and not more than 10 scheduled rounds. Three minutes of boxing shall constitute a round for men, and two minutes of boxing shall constitute a round for women. There shall be a rest period of 1 minute between the rounds.

(2) A promoter shall contract with a sufficient number of contestants to provide a program that consists of not less than 30, and not more than 56, rounds of professional boxing, unless otherwise approved by the department.

(3) When a professional program is held in conjunction with a USA Boxing sanctioned Pro-Am program, the minimum number of required professional rounds may be reduced to 12, provided the total number of scheduled rounds (professional and amateur) is not less than 30.

R 339.205 Ring; dimensions and construction.

Rule 205. (1) The ring shall be square and be not less than 16 feet nor more than 24 feet on a side, measured within the ropes. The ring floor shall extend not less than 18 inches beyond the ropes. There shall be padding over the ring post if the ring posts are nearer than 18 inches to the ring ropes.

(2) The ring floor shall be padded with not less than 5/8 of an inch base of ensolite or material with similar or superior shock-absorbing and deceleration characteristics which is capable of reducing initial impact and which is approved by the commission. The padding shall be placed on 1 inch of celotex building commission or the equivalent. The padding shall extend beyond the ring ropes and over the edge of the platform and shall be covered with canvas, duck, or a similar material, but not plastic material, that is tightly stretched and laced securely in place under the apron. The corners of the ring shall be padded.

(3) Ring posts shall be not less than 3, nor more than 4, inches in diameter extending from the floor to a height of 58 inches above the floor of the ring. The ropes shall be connected to posts with the extension not shorter than 18 inches.

(4) The ring shall be not more than 4 feet high. Steps shall be provided for the use of contestants.

(5) The ring shall not have less than 4 ropes which may be tightened and which are not less than 1 inch in diameter. The ropes shall be evenly spaced, securely tied halfway between the ring posts, and wrapped in a soft material.

R 339.206 Gloves.

Rule 206. (1) A contestant's gloves shall be examined before a contest by the referee and the department representative. If gloves are broken or unclean or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins and shall be retained by the department representative who shall check them for tampering.

(2) A promoter shall have on hand an extra set of gloves to be used if a contestant's gloves are broken or damaged during the course of a contest.

(3) Gloves for a main event may be put on in the ring after the referee has inspected the hand wraps of both contestants.

(4) During a contest, male contestants shall wear gloves weighing not less than 8 ounces each. Female contestants shall wear gloves weighing not less than 10 ounces each. The weight of the gloves may be changed at the discretion of the department.

(5) Gloves shall be thumb-attached and of the promoter's choice.

(6) Glove laces shall be tied on the outside of the back of the wrist of the gloves and shall be secured with waterproof medical tape. Duct tape shall not be used. The tips of the laces shall be removed.

R 339.207 Hand wrap specifications.

Rule 207. (1) Except as agreed to by the managers of the contestants or as provided in subrule (2) of this rule, a contestant's hand wrap for each hand shall consist of soft gauze that is not more than 10 yards long and not more than 2 inches wide. The gauze shall be held in place by not more than 6 feet of medical tape per hand.

(2) Except as agreed to by the managers of the opposing contestants, light heavyweight, cruiserweight, and heavyweight contestants' hand wraps for each hand shall consist of soft gauze that is not more than 12 yards long and not more than 2 inches wide. Gauze shall be held in place by not more than 8 feet of medical tape per hand.



- (3) To protect a contestant's hand, hand wraps may be held in place by winding medical tape not more than 12 inches wide around the hand.
- (4) Hand wraps shall be adjusted in the dressing room under the supervision of the department representative.
- (5) Water or any other substance other than medical tape on the hand wraps shall not be used.

R 339.209 Mouthpieces.

Rule 209. A round shall not begin until the contestant's protective mouthpiece is in place. If, during a round, the mouthpiece falls out of the contestant's mouth, the referee shall, as soon as practicable, stop the contest and escort the contestant to his or her corner. The mouthpiece shall be rinsed out and replaced in the contestant's mouth and the contest shall continue.

R 339.211 Contestant use or administration of any substance.

Rule 211. (1) The use or administration of drugs, stimulants, or nonprescription preparations by or to a contestant during a contest is prohibited, except as provided in this rule.

- (2) A substance other than water shall not be given to a contestant during the course of the contest.
- (3) Petroleum jelly may be allowed around the eyes; however, the use of petroleum jelly, grease, or any other substance on the arms, legs, or body is prohibited.
- (4) The use of coagulants, as approved by the commission, may be allowed between rounds to stop the bleeding of minor cuts and lacerations sustained by a contestant. The use of Monsel solution, silver nitrate, new skin, flex collodion, or substances having an iron base is prohibited, and the use of such substances by a contestant is cause for immediate disqualification.
- (5) The ringside physician shall monitor the use and application of any foreign substances administered to a contestant before or during a contest and shall confiscate any suspicious foreign substance for possible laboratory analysis, the results of which shall be forwarded to the department.

R 339.213 Ringside equipment.

Rule 213. (1) Each promoter shall provide all of the following items:

- (a) A sufficient number of buckets for use by the contestants.
- (b) Stools for use by the seconds.
- (c) Bio-protective gloves for use by referees, seconds, ringside physicians, and department representatives.
- (d) Containers for contestants to spit in.
- (e) A stretcher, which shall be kept under the ring near the physician.
- (f) A portable resuscitator with oxygen.
- (g) An ambulance with attendants on site at all times when contestants are boxing. Arrangements shall be made for a replacement ambulance if the first ambulance is required to transport a contestant for medical treatment. The location of the ambulance and the arrangements for substitute ambulance service shall be communicated to the physician.
- (h) Seats at ringside for assigned officials. The physician shall be seated near the steps into the ring.
- (i) Scales for weigh-ins, which the department may require to be certified.
- (j) A gong.
- (k) A public address system.
- (l) A separate dressing room for each sex, if boxers of both sexes are participating.
- (m) A separate room for physical examinations.
- (n) A separate dressing room shall be provided for officials, unless the physical arrangements of the site make the provision of an additional dressing room impossible.
- (o) Adequate security personnel.

- (p) High stools for use by the judges.
- (q) Sufficient contest sheets for ring officials and department representatives.
- (2) A promoter shall only hold boxing shows in premises that conform to the laws, ordinances, and regulations of the city, town, or village where the shows are situated.
- (3) Restrooms shall not be used as dressing rooms and rooms for physical examinations and weigh-ins.

R 339.215 Boxing officials.

Rule 215. (1) Each contest shall have not less than the following officials:

- (a) One referee.
- (b) Three judges.
- (c) One timekeeper.
- (d) One physician.
- (2) A licensed referee, judge, or timekeeper shall not officiate at a show that is not licensed by the department, except for a USA Boxing sanctioned show.
- (3) A referee or judge shall not officiate or accept an assignment to officiate when that assignment may impair the referee's or judge's independence of judgment or action in the performance of the referee's or judge's duties. Violation of this subrule renders the violator subject to the penalties set forth in section 602 of the act.
- (4) Officials shall be paid by the licensed promoter.
- (5) A judge shall be seated midway between the ring posts of the ring, but not on the same side as another judge, and shall have an unimpaired view of the ring.
- (6) A referee shall not be assigned to officiate more than 32 scheduled rounds in 1 day, except when substituting for another referee who is incapacitated.
- (7) A referee shall not wear jewelry that might cause injury to the contestants. Glasses, if worn, shall be protective athletic glasses or goggles with plastic lenses and a secure elastic band around the back of the head.
- (8) Referees, seconds working in the corners, department representatives, and physicians shall wear bio-protective gloves in the performance of their duties.
- (9) An official shall not be under the influence of alcohol or drugs while performing his or her duties. The department may request an official to be tested for the presence of alcohol or drugs in the same manner that contestants are tested. Violation of this subrule or refusal to be tested shall subject the official to the penalties set forth in section 602 of the act.
- (10) Ring officials shall avoid the appearance of partiality. A ring official shall not be licensed as a matchmaker, manager, second, or promoter. A ring official shall not own all or any portion of a contract of a boxer.

R 339.217 Conduct during shows.

Rule 217. (1) Beginning 1 minute before the first round begins, only the referee, contestants, and the chief second may be in the ring. The referee shall clear the ring of all other individuals.

- (2) Once a contest has begun, only referees, contestants, seconds, department representatives, physicians, and ring card persons shall be allowed in the ring.
- (3) The referee may order that the ring and ringside area be cleared, at any time before, during, or after a contest, of any individual who is not authorized to be present in the ring or ringside area. The department representative may order the clearing of the ringside area.
- (4) If any individual refuses to clear the ring or ringside area when ordered to do so by the referee or the department representative, disputes a decision by an official, or encourages spectators to object to a decision either verbally or physically, then the individual shall be deemed to be engaged in disruptive conduct. The referee, on his or her own initiative or at the request of the department representative, may

stop a contest at any time until the disruptive conduct ceases. If the individual involved in disruptive conduct is the manager or second of a contestant, then the referee may order points deducted from that contestant's score or disqualify the contestant. If the conduct occurred after the decision was announced, then the department representative shall file complaints against any licensed individual involved in the disruptive conduct. A licensee who engages in disruptive conduct shall be subject to the penalties set forth in section 602 of the act.

R 339.219 Referees.

Rule 219. (1) The referee is the chief official of a contest. The referee shall decide all questions arising in the ring during a contest that are not specifically addressed in these rules.

(2) The referee shall, before each contest begins, determine the name and location of the physician assigned to officiate at the contest and each contestant's chief second.

(3) At the beginning of each contest, the referee shall summon the contestants and their chief seconds together for final instructions. After receiving the instructions, the contestants shall shake hands and retire to their respective corners. The contestants shall not shake hands again until the beginning of the last round.

(4) Where difficulties arise concerning language, the referee shall make sure that the contestant understands the final instructions through an interpreter and shall use suitable gestures and signs during the contest.

(5) With the exception of the contestants, the referee, and the physician in the performance of his or her duties, a person shall not enter the ring, including the apron of the ring, during the progress of a round.

(6) If a contestant's manager or second steps into the ring or onto the apron of the ring during a round, then the fight shall be halted and the referee may eject the manager or second from the ringside working area. If the manager or second steps into the ring or onto the apron a second time during the contest, then the fight may be stopped and the decision awarded to the contestant's opponent due to disqualification.

(7) A referee shall inspect a contestant's gloves and the contestant's body to determine if a foreign substance has been applied.

(8) A referee shall not touch a contestant during a contest except when 1 or both contestants fail to obey the break command.

R 339.221 Stalling or faking.

Rule 221. (1) A referee shall warn a contestant if the referee believes the contestant is stalling or faking. If, after proper warning, the referee determines the contestant is continuing to stall or pull his or her punches, then the referee shall stop the contest at the end of the round.

(2) A referee may consult the judges as to whether the contestant is stalling or faking and shall abide by a majority decision of the judges.

(3) If it is determined that either or both contestants are stalling or faking, or if the contestant refuses to fight, then the contest shall be terminated and announced as no contest.

(4) A contestant who falls down without being struck shall be immediately examined by a physician, if, in the physician's professional judgment, there is a concern for the contestant's safety. After conferring with the physician, the referee may disqualify the contestant.

R 339.223 Injuries and cuts.

Rule 223. (1) If an injury or cut is produced by a fair blow and because of the severity of the blow the contest cannot continue, then the injured contestant shall be declared the loser by technical knockout.

(2) If a contestant intentionally fouls his or her opponent and an injury or cut is produced, and if, due to the severity of the injury or cut, the contestant cannot continue, then the contestant who commits the foul shall be declared the loser by disqualification.

(3) If a contestant receives an intentional butt or foul and the contest can continue, then the referee shall penalize the contestant who commits the foul by deducting points based upon the severity of the offense. The referee shall notify the judges that the injury or cut has been produced by an intentional unfair blow. If in the subsequent rounds the same injury or cut becomes so severe that the contest has to be suspended, then the decision shall be awarded as follows:

(a) A technical draw if the injured contestant is behind on points or even on a majority of the scorecards.

(b) A technical decision to the injured contestant if the injured contestant is ahead on points on a majority of the scorecards.

(4) If a contestant injures himself or herself trying to foul his or her opponent, then the referee shall not take any action in the contestant's favor, and the injury shall be considered the result of a fair blow from the contestant's opponent.

(5) If a contestant is accidentally butted in a contest and can continue, then the referee shall stop the action to inform the judges and acknowledge the butt. If in subsequent rounds, as a result of legal blows, the accidental butt injury worsens, then the referee shall stop the contest and declare a technical decision. The winner shall be the contestant who is ahead on points on a majority of the scorecards. If a contestant is accidentally butted in a contest and an injury or cut is produced and, due to the severity of the injury or cut, the contestant cannot continue, then the referee shall rule as follows:

(a) If the contest is stopped before 2 of the scheduled rounds have been completed, call the contest a technical draw.

(b) If the contest is stopped after 2 of the scheduled rounds have been completed, declare that the winner is the contestant who has a lead in points on a majority of the scorecards before the round of injury.

(6) If, in the opinion of the referee, a contestant has suffered a dangerous cut or injury, then the referee may stop the contest temporarily to summon the physician. If the physician recommends that the contestant can continue, the referee may order the contest to be continued. If the physician recommends that the contestant should not continue, then the referee shall order the contest to be terminated.

(7) A fight shall not be terminated because of a low blow. The referee may give a contestant not more than 5 minutes if the referee believes a foul has been committed. Each contestant shall be instructed to return to his or her respective corner by the referee. The contestants may sit on a stool and have their mouthpieces removed. After removing their contestant's mouthpiece, the seconds shall return to their seats. The seconds shall not coach, administer water, or in any other way attend to their contestant, except to replace the mouthpiece when the round is ready to resume.

(8) If a contestant is knocked down or given a standing mandatory 8 count or a combination of either occurs 3 times in 1 round, then the referee shall stop the contest and award a technical knockout to the opponent. The physician shall immediately enter the ring and examine the losing contestant.

(9) A physician shall immediately examine and administer aid to a contestant who is knocked out or injured, if, in the physician's professional judgment, there is a concern for the contestant's safety.

(10) If a contestant is knocked out or incapacitated, the referee or second shall not handle the contestant, except for the removal of a mouthpiece, unless directed by the physician to do so.

(11) A contestant shall not refuse to be examined by a physician.

(12) A contestant who has been knocked out shall not leave the site of the show until 1 hour has elapsed from the time of the examination or until released by the physician.

(13) A physician shall file a written report with the department on each contestant who has been knocked out or injured.

#### R 339.225 Knockouts.

Rule 225. (1) A contestant who is knocked down shall take a minimum mandatory count of 8.

(2) If a contestant is dazed by a blow and, in the referee's opinion, is unable to defend himself or herself, then the referee shall give a standing mandatory count of 8 or stop the contest. If on the count of 8 the contestant, in the referee's opinion, is unable to continue, then the referee may count him or her out on his or her feet or stop the contest on the count of 8.

(3) If there is a knockdown, the timekeeper shall immediately start the count loud enough to be heard by the referee, who, after waving the opponent to the farthest neutral corner, shall pick up the count from the timekeeper and proceed from there. The referee shall stop the count if the opponent fails to remain in the corner. The count shall be resumed when the opponent has returned to the corner.

(4) The timekeeper shall signal the count to the referee.

(5) If the contestant taking the count is still down when the referee calls the count of 10, then the referee shall wave both arms to indicate that the contestant has been knocked out. The referee shall summon the physician and shall then raise the opponent's hand as the winner. The referee's count is the official count.

(6) If at the end of a round a contestant is down and the referee is in the process of counting, the gong indicating the end of the round shall not be sounded, except for the last round. The gong shall only be sounded when the referee gives the command to box indicating the continuation of the contest.

(7) In the final round, the timekeeper's gong shall terminate the fight.

(8) A referee shall award a technical knockout decision to the opponent if a contestant is unable or refuses to continue when the gong sounds to begin the next round. The decision shall be awarded in the round started by the gong.

(9) The referee and timekeeper shall resume their count at the point it was suspended if a contestant rises before the count of 10 is reached and falls down immediately without being struck.

(10) If both contestants go down at the same time, then counting shall continue as long as 1 of them is still down or until the referee or the ringside physician determines that 1 or both of the contestants need immediate medical attention. If both contestants remain down until the count of 10, then the contest shall stop and the decision shall be scored as a double knockout.

R 339.227 Contestant outside of ring ropes.

Rule 227. (1) A contestant who has been knocked, wrestled, or pushed, or who has fallen, through the ropes during a contest shall not be helped back into the ring and shall not be hindered in any way by anyone when trying to reenter the ring.

(2) If 1 contestant has fallen through the ropes, the other contestant shall retire to the farthest neutral corner and stay in that corner until ordered to continue the contest by the referee.

(3) The referee shall warn the contestant that the contestant has 20 seconds to return to the ring unassisted. After the warning by the referee, the referee shall begin the count, which shall be loud enough to be heard by the contestant.

(4) If the contestant enters the ring before the count of 20, the contest shall be resumed.

(5) If the contestant fails to enter the ring before the count of 20, the contestant shall be considered knocked out.

R 339.229 Scoring; "10-point must system" defined.

Rule 229. (1) Officials who score a contest shall use the 10-point must system.

(2) For the purpose of this rule, the "10-point must system" means that the winner of each round receives 10 points as determined by clean hitting, effective aggressiveness, defense, and ring generalship. The loser of the round shall receive less than 10 points. If the round is even, each contestant receives 10 points. Fractions of points shall not be given.

- (3) Officials who score the contest shall mark their cards in ink or in indelible pencil at the end of each round.
- (4) Officials who score the contest shall sign their scorecards.
- (5) Except as provided in subrule (6) of this rule, at the conclusion of each contest, the judges shall total the points for each contestant and indicate the winner by writing the winner's name at the designated area on the scorecard and circle the same name where it appears on the top of the scorecard.
- (6) If a contest is scored on individual score sheets for each round, the referee shall, at the end of a round, collect the score sheet for the round from each judge and shall give the score sheets to the department representative for computation.
- (7) Referees and judges shall be discreet at all times and shall not discuss their decisions with anyone during a show.
- (8) A decision that is rendered at the termination of a boxing contest shall not be changed without a hearing, unless it is determined that a computation of the scorecards shows a clerical or mathematical error giving the decision to the wrong contestant. If such an error is found, the decision may be changed by the department representative.
- (9) The referee shall collect the score sheets from the judges and give them to the department representative for checking. After the sheets have been checked, the referee shall collect them and give them to the announcer, who shall announce the decision to the spectators.
- (10) After a contest, the department representative shall collect and maintain the scorecards.
- (11) If a referee becomes incapacitated and is unable to complete a boxing contest, then a time-out shall be called and the other referee who is assigned to the show shall assume the duties of the referee.
- (12) If a judge becomes incapacitated and is unable to complete the scoring of a boxing contest, then a time-out shall be called and an alternate licensed judge shall immediately be assigned to score the contest from the point at which he or she assumed the duties of a judge. If the incapacity of a judge is not noticed during a round, the referee shall score that round and the substitute judge shall score all subsequent rounds.

#### R 339.231 Fouls.

Rule 231. A referee may disqualify or penalize a contestant by deducting points from a round for any of the following fouls:

- (a) Holding an opponent or deliberately maintaining a clinch.
- (b) Hitting with the head, shoulder, elbow, wrist, inside or butt of the hand, or the knee.
- (c) Hitting or gouging with an open glove.
- (d) Wrestling, spinning, or roughing at the ropes.
- (e) Gripping at the ropes when avoiding or throwing punches.
- (f) Intentionally striking at the part of the body that is over the kidneys.
- (g) Using a rabbit punch or hitting an opponent at the base of the opponent's skull.
- (h) Hitting on the break or after the gong has sounded.
- (i) Hitting an opponent who is down or rising after being down.
- (j) Hitting below the beltline.
- (k) Holding an opponent with 1 hand and hitting with the other.
- (l) Purposely going down without being hit or to avoid a blow.
- (m) Using abusive language in the ring.
- (n) Unsportsmanlike conduct on the part of the contestant or a second whether before, during, or after a round.
- (o) Intentionally spitting out a mouthpiece.
- (p) Any backhand blow.

R 339.233 Penalties for fouling.

Rule 233. (1) A referee who penalizes a contestant under these rules shall notify the judges at the time of the infraction to deduct specified points from their scorecards.

(2) A contestant committing a deliberate foul, in addition to the deduction of points, may be subject to the penalties set forth in Chapter 4 of the act.

(3) A judge shall not deduct points pursuant to Rule 231 unless instructed to do so by the referee.

(4) A complaint shall be filed by the department against a contestant disqualified on a foul.

R 339.235 Physical examination.

Rule 235. (1) As required by section 57(1) of the act, not more than 8 hours before a show a physician, licensed physician's assistant, or certified nurse practitioner shall certify that each contestant is in proper physical condition to participate in the show by taking a detailed medical history and examining all of the following:

(a) Eyes.

(b) Teeth.

(c) Jaw.

(d) Neck.

(e) Chest.

(f) Ears.

(g) Nose.

(h) Throat.

(i) Skin.

(j) Scalp.

(k) Head.

(l) Abdomen.

(m) Cardiopulmonary status.

(n) Neurological, muscular, and skeletal systems.

(o) Abdomen and breasts, if a female contestant.

(p) Pelvis.

(2) The physician, licensed physician's assistant, certified nurse practitioner or the department representative may also test for the presence of alcohol or drugs in the body.

(3) The physician, licensed physician's assistant, or certified nurse practitioner shall certify, in writing, those contestants who are in good physical condition to compete.

(4) Before a contest, a female contestant shall provide the ringside physician, licensed physician's assistant, or certified nurse practitioner with the results of a pregnancy test performed on the contestant within the previous 14 days. If the results of the pregnancy test are positive, the contestant shall not compete and the department representative shall be notified.

**(5) Before a contest, a contestant shall provide the ringside physician, licensed physician's assistant, or certified nurse practitioner with the results of HIV and Hepatitis tests performed on the contestant within the previous 12 months. If the results of the tests are positive or not provided, then the contestant shall not compete and the department representative shall be notified.**

(6) A contest shall not begin until a physician and an attended ambulance are present. The physician shall not leave until the decision in the final contest has been announced and all injured contestants have been attended to.

(7) The physician shall sit near the steps into the ring and the contest shall not begin until the physician is seated. The physician shall remain at that location for the entire contest.

R 339.237 Timekeepers.

Rule 237. (1) A timekeeper shall indicate the beginning and end of each round by the gong.

(2) A timekeeper shall possess a whistle and a stopwatch.

(3) Ten seconds before the beginning of each round, the timekeeper shall warn the contestants' seconds of the time by blowing a whistle.

(4) If a contest terminates before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.

R 339.239 Seconds.

Rule 241 (1) A contestant shall not have more than 4 seconds, 1 of whom shall be designated as the chief second. The chief second shall be responsible for the conduct in the corner during the course of a contest. During the rest period, 1 second shall be allowed inside the ring, 2 seconds shall be allowed on the apron, and 1 second shall be allowed on the floor.

(2) A contestant's chief second shall not coach or assist the contestant during a round and shall remain seated during the round.

(3) A second shall not spray or throw water on a contestant during a round.

(4) A contestant's corner shall not heckle or in any manner annoy the opponent of the contestant or the referee or throw any object into the ring.

(5) A second shall not enter the ring until the timekeeper has indicated the end of a round.

(6) A second shall leave the ring at the timekeeper's whistle and shall clear the ring platform of all obstructions at the sound of the gong indicating the beginning of a round. Articles shall not be placed on the ring floor until the round has ended or the contest has terminated.

(7) A referee may eject a second from a ring corner for violations of the provisions of subrules (3) and (4) of this rule and may have judges deduct points from a contestant's score for the actions of the contestant's corner.

(8) A second may indicate to the referee that the second's contestant cannot continue and that the contest should be stopped. Only verbal notification or hand signals may be used. The throwing of a towel into the ring does not indicate the defeat of the second's contestant.

(9) A second shall not administer alcoholic beverages, narcotics, or stimulants to a contestant, pour excessive water on the body of a contestant, or place ice in the trunks or protective cup of a contestant during the progress of a contest.

R 339.241 Contests involving opponents of opposite sex prohibited.

Rule 241. Contests shall not involve opponents of the opposite sex.

R 339.243 Identification; passports.

Rule 243. (1) Each contestant shall provide 2 pieces of identification, 1 of which shall have a photo of the contestant, to the department representative before participation in a contest.

(2) A boxer shall present a passport issued by the department as 1 of the pieces of identification required under subrule (1) of this rule. The passport shall be issued by the department at the time the boxer receives his or her original license.

(3) The passport shall contain all of the following information:

(a) The boxer's federal I.D. number.

(b) The boxer's license number.

(c) The boxer's name and address.

(d) The boxer's social security number.

(e) A photograph of the boxer.



- (f) The boxer's height and weight.
- (g) A record of each fight in which the boxer has participated.
- (4) Unless otherwise approved by a department representative, a boxer shall not compete if his or her passport is incomplete or if the boxer fails to present the passport to the department representative before the contest.

**R 339.245 Dress for contestants.**

Rule 245. (1) Contestants shall wear all of the following:

- (a) Trunks that are belted at the contestant's waistline. For the purposes of this subrule, the waistline shall be defined as an imaginary horizontal line drawn through the navel to the top of the hips. Trunks shall not have any buckles or other ornaments on them that might injure a contestant or referee.
- (b) A foul-proof protector for male contestants, and a pelvic area protector and breast protector for female contestants.
- (c) Shoes which are made of soft material and which do not have spikes, cleats, or heels.
- (d) A fitted mouthpiece, which shall be examined by the ring physician.
- (e) Gloves meeting the requirements of Rule 206.
- (2) In addition to the clothing required under subrule (1) of this rule, a female contestant shall wear a body shirt or blouse that does not have buttons, buckles, or ornaments.
- (3) A contestant's hair shall be cut or secured so as not to interfere with the contestant's vision.
- (4) A contestant shall not wear corrective lenses into the ring.

**R 339.247 Failure to compete.**

Rule 247. A contestant's manager shall immediately notify the department if, due to illness or injury, the contestant is unable to compete in a contest for which the contestant has contracted to appear. The department may require that the contestant be examined by a physician.

**R 339.249 Procedure after knockouts or sustained damaging head blows.**

- Rule 249. (1) The boxer's manager and seconds shall assure that the boxer complies with the provisions of this rule and Rule 251. Violations of this rule and/or Rule 251 shall be grounds for disciplinary action under section 40 of the act against the boxer, the boxer's manager, or the boxer's seconds.
- (2) A boxer who has lost by a technical knockout shall not compete again for a period of 30 calendar days or until the boxer has submitted the results of a physical examination in accordance with section 50 of the act.
- (3) The ringside physician shall examine a boxer who has been knocked out in a contest or a boxer whose fight has been stopped by the referee because the boxer received hard blows to the head that made him or her defenseless or incapable of continuing immediately after the knockout or stoppage. The ringside physician may refer the contestant to a hospital or medical facility for post-fight neurological evaluations to be performed on the boxer immediately after the boxer leaves the location of the show. If such referrals are made, and the results of the examinations are not received by the department within 24 hours of their completion, then the boxer shall be ineligible to compete until such reports are received and until certification is given by a physician that the boxer is fit to compete after an examination.

**R 339.251 Eligibility to compete.**

Rule 251(1) All medical reports that are submitted to the department relative to a physical examination or the condition of a boxer shall be confidential and shall be open to examination only by the

department, the commission, and the licensed boxer upon the boxer's request to examine the records or upon the order of a court of competent jurisdiction.

(2) A boxer who has been knocked out or who received excessive hard blows to the head that made him or her defenseless or incapable of continuing shall be ineligible to compete for a period of not less than 60 days.

(3) A boxer who has lost 6 consecutive fights shall be ineligible to compete again until the commission has reviewed the results of the 6 fights and the boxer has submitted to a physical examination by a physician who has certified that the boxer is fit to compete.

(4) A boxer who has had cardiac surgery shall be ineligible to compete until the boxer has submitted to a medical examination by a cardiovascular surgeon who has certified that the boxer is fit to compete.

(5) A boxer who has suffered a detached retina shall be ineligible to compete until the boxer has submitted to a medical examination by an ophthalmologist who has certified that the boxer is fit to compete.

(6) A boxer who is prohibited from boxing in other states or jurisdictions due to medical reasons may be prohibited from boxing in Michigan in accordance with these rules. In considering prohibiting a boxer from boxing in this state, the boxer's entire professional record shall be considered, regardless of the state or country in which the boxer's fights occurred.

(7) A boxer or the boxer's manager shall report any change in a boxer's medical condition that may affect the boxer's ability to fight safely. The department may, at any time, require current medical information on any boxer.

#### R 339.253 Waiting period.

Rule 253. The following number of days shall elapse before a boxer who has competed anywhere in a contest may participate in another contest:

Length of Contest (In Scheduled Rounds)	Required Interval (In Days)
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4	3
5-9	5
10-12	7
13-15	14

#### R 339.255 Championships and international contests; adoption of rules by reference.

Rule 255. (1) For a championship contest or an international contest that is held in this state, the commission adopts by reference in these rules Association of Boxing Commissions (A.B.C.) Regulatory Guidelines, effective July 21, 2004, as applicable to the specific championship or international contest and the fees paid to officials for such championships and contests. Copies of the adopted matter are available for inspection at the office of the Michigan Boxing Commission 2501 Woodlake Circle, Okemos, MI 48864, mailing address, P.O. Box 30018, Lansing MI 48909. Copies of the rules may be obtained from The Association of Boxing Commissions (A.B.C.), world-wide web, <http://www.abcboxing.com>, by linking to "documents," at no charge.

#### R 339.257 Managers.

Rule 257. (1) A manager shall not contract for a contest that involves a minor unless he or she has a power of attorney or the approval of the boxer's legal guardian.

(2) A manager shall not sign a contract for the appearance of a boxer if the manager does not have the boxer under contract.

(3) A licensed manager may act as a second without a second's license; however, a manager shall not hold a license as a referee, judge, timekeeper, or matchmaker.

**R 339.259 Matchmakers and promoters; liability for lack of judgment in arranging matches; contract restrictions.**

Rule 259. (1) The promoter and matchmaker shall be responsible for a match in which 1 of the boxers is disproportionately outclassed. Persistent lack of judgment in arranging matches shall be sufficient grounds for disciplinary action under section 40 of the act.

(2) A promoter shall not own a contract or a portion of a contract of, or receive proceeds from a contract with, any boxer who is boxing in 1 of the promoter's productions. A matchmaker shall not own a contract or a portion of a contract of, or receive proceeds from a contract with, any boxer for whom the matchmaker arranges matches.

(3) A matchmaker may be licensed as a promoter. A promoter may be licensed as a matchmaker. However, neither a promoter nor a matchmaker shall be licensed as a referee, timekeeper, judge, boxer, or manager.

**R 339.261 Filing of documents by promoter; publicizing shows; contract requirements; promoter responsible for paying insurance deductible.**

Rule 261. (1) A promoter shall file with the department a written request to hold a show not less than 30 days, or not less than 7 days for televised shows, before the date of the proposed show. The request shall indicate if the show is to be televised.

(2) Not later than 24 hours following the contests, a promoter shall file with the department true copies of the promoter's contracts with the boxers for all contests.

(3) A matchmaker shall be responsible for verifying the identity, ring record, eligibility, and suspensions of each boxer. A promoter shall be responsible for the accuracy of the names and records of each of the participating boxers in all publicity or promotional material.

(4) A boxer shall use his or her legal name to sign a contract; however, a boxer who is licensed under another name may sign the contract using his or her licensed name if the boxer's legal name appears in the body of the contract as the name under which the boxer is otherwise known.

(5) All contracts shall be between a promoter and a boxer. There shall not be a contract between the promoter and a manager. However, a contract may be signed by a boxer's manager on behalf of the boxer. If a boxer does not have a licensed manager, then the boxer shall sign the contract.

(6) The contract that is filed with the department shall embody all of the agreements between the parties. Secret contracts which contradict the terms of the contracts that are filed with the department are prohibited.

(7) The contract between a promoter and a boxer shall be for the use of the boxer's skills in a contest and shall not require the boxer to sell tickets in order to be paid for his or her services.

(8) If the insurance provided by the promoter to meet the requirements of section 807 of the act has a requirement for a deductible amount to be paid, then the promoter shall be responsible for paying the deductible amount.

**R 339.263 Charitable ticket sales.**

Rule 263. A promoter who collects contributions for a charitable organization licensed under the provisions of the charitable organizations and solicitations act, 1975 PA 169, MCL 400.271, shall comply with the provisions of that act and shall promptly transmit funds collected to the charitable organization. A promoter who is found to have violated the provisions of the charitable organizations and solicitations act shall be subject to the penalties set forth in Chapter 4 of the act.

## R 339.265 Compensation.

Rule 265. Each official assigned to officiate a professional boxing contest shall be paid in accordance with the fees listed in table 1 as follows:

Gross Receipts	Referees	Judges	Announcer	Timekeepers	Physicians	Nurse Practitioner/Physicians Assistant
\$ .00 to \$7,500.99	\$75	\$50	\$35	\$50	\$200	\$100
\$7,501.00 to \$15,000.99	\$125	\$50	\$50	\$50	\$200	\$100
\$15,000.01 to \$25,000.99	\$200	\$75	\$75	\$50	\$200	\$100
\$25,001.00 to \$50,000.99	\$300	\$100	\$100	\$100	\$300	\$100
\$50,001.00 to \$100,000.00	\$500	\$125	\$125	\$100	\$400	\$100
\$100,001.00 to \$250,000	\$700	\$150	\$150	\$150	\$600	\$100
Over \$250,000	\$1000	\$250	\$250	\$250	\$700	\$100

## R 339.267 Elimination tournaments.

Rule 267. An elimination tournament is a tournament in which 2 contestants box one another, the loser is eliminated from the tournament, and the tournament continues with winners from the various contests competing until only 1 contestant remains undefeated in the weight division. An elimination tournament shall be in compliance with all of the rules pertaining to professional boxing.

## R 339.269 Drug testing.

Rule 269. (1) The department, the department representative, or the ringside physician may request that a boxer or assigned official take a test or submit to an examination designed to measure the presence of alcohol or drugs before or immediately following a contest. The examination shall take place at a facility acceptable to the department. The promoter shall be responsible for the cost of testing boxers. An official shall pay the cost of his or her examination.

(2) If such a test or examination results in a finding of the presence of a drug or alcohol or if the boxer or official refuses to submit to a test or refuses or is unable to provide a sample of body fluids for a test, then a complaint shall be filed under the procedures of Chapter 4 of the act. If a determination is made that the boxer or official is subject to disciplinary action, then the commission may impose the following minimum penalties under Chapter 4 of the act:

- (a) For a first violation, suspension for 90 days.
- (b) For a second violation, a 1-year suspension.

(c) For a third violation, revocation of licensure.

(3) At the completion of a suspension ordered by the commission under subrule (2)(a) and (b) of this rule based on a finding of the presence of drugs, a boxer or official may be required to submit to a test for the presence of drugs. The results of the test shall be negative for all drugs tested before a boxer is allowed to box again or an official is assigned to officiate again.

(4) A boxer who is disciplined under this rule and who was the winner of a contest shall be disqualified and the decision of the contest shall be changed to "no contest."

(5) The results of a contest shall remain unchanged if a boxer who is disciplined under this rule was the loser of the contest.

(6) Boxers who are prohibited, restrained, disqualified, or are otherwise ineligible to compete in other states or jurisdictions due to disciplinary action that involves the use of drugs shall not box in Michigan until such time as the period of prohibition, restraint, disqualification, or ineligibility is completed or removed. However, a boxer with an active suspension in any state or jurisdiction may be required to take and pass a drug test before being allowed to compete in Michigan.

### **PART 3. FEES**

#### **R 339.301 Administrative fees.**

Rule 301. The department may charge the following fees under the act:

(1) The department shall charge a \$20.00 late renewal fee if a person fails to renew a license or registration on or before the expiration date prescribed by the department.

(2) A fee collected by the department, when paid pursuant to this act, shall not be refunded, except as provided in administrative rules promulgated by the director.

(3) The department may charge a fee for the issuance of a duplicate license or registration. The duplicate shall not be issued unless the person applying for the duplicate signs a statement that the original document has been lost, stolen, or destroyed. The fee for the duplicate shall be \$15.00.

(4) The department may charge a \$5.00 fee for providing written verification that a person is or is not licensed or registered at the time of the request for verification.

(a) If the person requesting written verification seeks specific detailed information beyond the information described in subrule (4) of this rule, then the charge for verification shall be \$15.00.

(5) The department may charge a \$10.00 fee for correcting its records and issuing a new document when a person notifies the department of a change of name and address. If the change does not require the issuance of a new document, then no charge shall be made for correcting the department's records.

#### **R 339.303 License fees.**

**Rule 303. Fees for a person licensed or seeking licensure as a professional boxer, judge, manager, referee, timekeeper, second, promoter, matchmaker, physician, physician's assistant, or nurse practitioner are as follows:**

**(a) Application processing fees:**

<b>(i) Professional boxer license and passport</b>	<b>45.00</b>
<b>(ii) Promoter</b>	<b>500.00</b>
<b>(iii) All other licenses:</b>	<b>30.00</b>
<b>(b) License fee, per year:</b>	
(i) Professional boxer.....	25.00
(ii) Judge.....	70.00
(iii) Referee.....	150.00
(iv) Timekeeper.....	70.00

(v) Manager.....	125.00
(vi) Matchmaker.....	150.00
(vii) Promoter.....	250.00
(viii) Second.....	30.00
(ix) Physician.....	150.00
(x) Physicians Assistant / Nurse Practitioner.....	70.00
(c) Duplicate boxer passport .....	30.00

#### **PART 4.**

##### **R 339.401 Expiration date; late renewal fee; relicensure.**

**Rule 401. (1) Licenses shall expire annually on August 31.**

**(2) A person who fails to renew a license on or before August 31 shall not practice the occupation after the expiration date printed on the license. A license shall lapse on the day after the expiration.**

**(3) A person who fails to renew a license on or before August 31 may renew the license by payment of the required license fee and a late renewal fee within 60 days after the expiration date.**

**(4) A person who fails to renew a license within the time period in subrule (3) of this rule may be relicensed upon showing that the person meets the current requirements for licensure as established in the act and administrative rules and pays an application processing fee, the late renewal fee, and the per year license fee.**

##### **R 339.403 Reinstatement.**

**Rule 403. A person who seeks reinstatement of a license shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the commission stating reasons for reinstatement and including evidence that the person can and is likely to serve the public with competence and in conformance will all other requirements prescribed law, rule, or an order of the commission.**

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**NOTICE OF PUBLIC HEARING**

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**ORR # 2004-059 and # 2004-060**

DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
BUREAU OF COMMERCIAL SERVICES

BOARD OF ATHLETIC CONTROL/BOXING RULES

Rule Sets 2004-059 and 2004-060

NOTICE OF PUBLIC HEARING

January 27, 2005

2501 Woodlake Circle Okemos Michigan

Conference Room 3 1st floor 10:00 a.m.

The Department of Labor and Economic Growth will hold a public hearing on Thursday, January 27, 2005, at the Bureau of Commercial Services, 2501 Woodlake Circle, Okemos Michigan in Conference Room 3 at 10:00 a.m. The hearing will be held to receive public comments on proposed changes to the Administrative Rules for the Board of Athletic Control and new rules for boxing.

The proposed rule set #2004-059 is to rescind rules promulgated under article 8 of the Occupational Code for the board of athletic control, which will be obsolete with the implementation of rules promulgated under 2004 PA 403 (Rule set #2004-060). The new rules will transfer current rules necessary for regulation of boxing from the rescinded rule set, and to establish license fees as provided by the Boxing Regulatory Act, 2004 PA 403.

These rules are promulgated by authority conferred on the Department of Labor and Economic Growth by sections 2004 PA 403. These rules will take effect immediately upon filing with the Secretary of State.

The rules [Rule Sets 2004-059 and 2004-060] are published on the Michigan Government web site at <http://www.michigan.gov/orr> and in the January 15 issue of the *Michigan Register*. Comments may be submitted to the following address by 5:00 P.M. on February 2, 2005. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Labor and Economic Growth  
Jeannine Benedict, Bureau of Commercial Services  
P. O. Box 30018  
Lansing MI 48909-7518

Phone: 517/241-9219 FAX: 517/ 373-1044 E-mail: [jbened@michigan.gov](mailto:jbened@michigan.gov)

The hearing site is accessible, including handicap parking. People with disabilities requiring additional accommodations in order to participate in the hearing (such as information in alternative formats) should contact the Bureau at 517/241-9249 at least 14 days prior to the hearing date.

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**EXECUTIVE ORDERS  
AND  
EXECUTIVE REORGANIZATION ORDERS**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

*(a) Executive orders and executive reorganization orders.”*



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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER No.2004 – 36**

**DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
COUNCIL FOR LABOR AND ECONOMIC GROWTH**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, the Governor is responsible for taking care that the laws be faithfully executed;

WHEREAS, the State of Michigan is committed to preparing both current and future workers for highly-skilled and high-wage jobs;

WHEREAS, the State of Michigan has the responsibility to afford all Michigan citizens the chance to participate in quality employment and training programs;

WHEREAS, the State of Michigan has the responsibility to streamline workforce development programs and to develop a citizen-friendly, performance-oriented delivery system;

WHEREAS, Executive Order 1983-1 established the Michigan Job Training Coordinating Council and was amended by Executive Order 1985-15;

WHEREAS, under Executive Order 1993-3, the Michigan Job Training Coordinating Council was abolished, Executive Orders 1983-1 and 1985-15 were rescinded, and the Governor's Workforce Commission was established;

WHEREAS, under Executive Order 1994-26 a new Governor's Workforce Commission was established and the Governor's Workforce Commission created under Executive Order 1993-3 was abolished;

WHEREAS, the federal Workforce Investment Act of 1998, Public Law 105-220, 29 USC 2801 to 9201, was enacted to provide workforce investment activities that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants to improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation;

WHEREAS, under Section 111 of the federal Workforce Investment Act of 1998, Public Law 105-220, as amended, 29 USC 2821, the Governor must establish a state workforce investment board;

WHEREAS, under Executive Order 2002-5, the Michigan Workforce Investment Board was established and the Governor's Workforce Commission created under Executive Order 1994-26 was abolished;

WHEREAS, changes in the structure of the Michigan Workforce Investment Board created under Executive Order 2002-5 are necessary to reflect the current organizational structure of state government and to comply with federal law;

WHEREAS, changes in the structure of the Michigan Workforce Investment Board will facilitate a statewide policy dialogue involving local workforce boards, universities, community colleges, K-12 schools, and other key stakeholders;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in me by the Michigan Constitution of 1963, and under Michigan and federal law, order the following:

## **I. DEFINITIONS**

As used in this Order:

A. “Adult” means that term as defined under Section 101(1) of the federal Workforce Investment Act of 1998, 29 USC 2801(1).

B. “Chief Elected Official” means a chief elected executive officer of a Unit of General Local Government in a Local Area, or when the Local Area includes more than one Unit of General Local Government, the individuals designated under a Local Board agreement required under Section 117(c)(1)(B) of the federal Workforce Investment Act of 1998, 29 USC 2832(c)(1)(B).

C. “Civil Service Commission” means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

D. “Community Based Organization” means a nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.

E. “Council” means the Council for Labor and Economic Growth created under this Order.

F. “Department of Labor and Economic Growth” means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, and renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011.

G. “Department of Community Health” means the principal department of state government created as the Department of Mental Health under Section 400 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.500, and renamed the “Department of Community Health” under Executive Order 1996-1, MCL 330.3101.

H. “Department of Management and Budget” means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

I. “Dislocated Worker” means that term as defined under Section 101(9) of the federal Workforce Investment Act of 1998, 29 USC 2801(9).

J. “Employment and Training Activity” means an activity described in Section 134 of the federal Workforce Investment Act of 1998, 29 USC 2864, that is carried out for an Adult or Dislocated Worker.

K. “Family Independence Agency” means the principal department of state government created as the Department of Social Services under Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550, and renamed the Family Independence Agency under Section 1 of the Social Welfare Act, 1939 PA 280, MCL 400.1.

L. “Labor Federation” means an alliance of 2 or more organized labor unions for the purpose of mutual support and action, including, but not limited to the AFL-CIO state federation, state building and construction trade councils, AFL-CIO central labor councils, and local building and construction trade councils.

M. “Local Area” means a local workforce investment area designated under Section 116 of the federal Workforce Investment Act of 1998, 29 USC 2831.

N. “Local Board” means a local workforce investment board established under Section 117 of the federal Workforce Investment Act of 1998, 29 USC 2832.

O. “State Adjusted Level of Performance” means a level described in clause (iii) or (v) of Section 136(b)(3)(A) of the federal Workforce Investment Act of 1998, 29 USC 2871(b)(3)(A).

P. “State Performance Measure” means a performance measure established under Section 136(b) of the federal Workforce Investment Act of 1998, 29 USC 2871(b).

Q. “Statewide Workforce Investment System” means a system of activities funded under Subtitle B of Title I of the federal Workforce Investment Act of 1998, 29 USC 2801 to 2872, or carried out through a one-stop delivery system described under Section 134(c) of the federal Workforce Investment Act of 1998, 29 USC 2864(c), that receives funding under Subtitle B of Title I of the federal Workforce Investment Act of 1998, 29 USC 2801 to 2872. A “Statewide Workforce Investment System” includes both of the following:

1. Development of linkages in order to assure coordination and non-duplication among the programs and activities described in Section 121(b) of the federal Workforce Investment Act of 1998, 29 USC 2841(b).

2. Review of local plans under the federal Workforce Investment Act of 1998, 29 USC 2801 to 9201.

R. “Michigan Economic Development Corporation” means the public body corporate created under Section 28 of Article VII of the Michigan Constitution of 1963 and the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, and subsequently amended, between local participating economic development corporations formed under the Economic Development Corporations Act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan Strategic Fund.

S. “Michigan Strategic Fund” means the public body corporate and politic created under Section 5 of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005, transferred to the Department of Management and Budget under Executive Order 1999-1, and transferred to the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011.

T. “One Stop Partner” means an entity that meets both of the following:

1. Is an entity described under Section 121(b)(1) of the federal Workforce Investment Act of 1998, 29 USC 2941(b)(1).
2. Is an entity participating, with the approval of the Local Board and Chief Elected Official, in the operation of a one-stop delivery system under the federal Workforce Investment Act of 1998, 29 USC 2801 to 9201.

U. “Unit of General Local Government” means a general purpose political subdivision of this state that has the power to levy taxes and spend funds, and that has general corporate and police powers.

V. “Workforce Investment Activity” means the array of activities permitted under Title I of the federal Workforce Investment Act of 1998, 29 USC 2801 to 2940, including Employment and Training Activities and Youth Activities.

W. “Youth Activity” means an activity described under Section 129 of the federal Workforce Investment Act of 1998, 29 USC 2854.

## **II. CREATION OF COUNCIL FOR LABOR AND ECONOMIC GROWTH**

A. The Council for Labor and Economic Growth is created as an advisory body within the Department of Labor and Economic Growth and shall be the state workforce investment board required for this state under Section 111 of the federal Workforce Investment Act of 1998, 29 USC 2821.

B. The Council shall consist of the members described under Sections II.C to II.G.

C. The Governor shall be a member of the Council, as required under Section 111(b)(1)(A) of the Workforce Investment Act of 1998, 29 USC 2821(b)(1)(A).

D. As required under Section 111(b)(1)(B) of the Workforce Investment Act of 1998, 29 USC 2821(b)(1)(B), 2 members of the Michigan House of Representatives shall be appointed members of the Council by the Speaker of the House of Representatives, who serves as the presiding officer of the House of Representatives under Rule 5 of the Rules of the Michigan House of Representatives. A member appointed under this Section II.D shall serve only while a member of the Michigan House of Representatives.

E. As required under Section 111(b)(1)(B) of the Workforce Investment Act of 1998, 29 USC 2821(b)(1)(B), 2 members of the Michigan Senate shall be appointed members of the Council by the Lieutenant Governor, who serves as the presiding officer of the Michigan Senate under Section 25 of Article V of the Michigan Constitution of 1963 and under Rule 1.101 of the Rules of the Michigan Senate. A member appointed under this Section II.E shall serve only while a member of the Michigan Senate.

F. The following members appointed by the Governor:

1. Not less than 19 individuals representing business in this state, appointed from a list of individuals nominated by state business organizations or business trade associations, and meeting both of the following criteria:
  - a. The individual is an owner of a business, a chief executive of a business, a chief operating officer of a business, or other business executive or employer with optimum policy making authority or hiring authority, including a member of a Local Board representing business in the Local Area for that board.
  - b. The individual represents businesses with employment opportunities that reflect the employment opportunities of this state.
2. Not less than 2 Chief Elected Officials.
3. Not less than 4 individuals representing labor organizations who have been nominated by a Labor Federation in this state.
4. Not less than 2 individuals representing individuals and organizations that have experience with respect to Youth Activities.
5. Not less than 2 individuals representing individuals and organizations that have experience and expertise in the delivery of Workforce Investment Activities, including chief executive officers of community colleges and Community Based Organizations within this state. An individual with “expertise in the delivery of Workforce Investment Activities” includes an individual who is an official with a One Stop Partner program and a person with documented expertise relating to the One Stop Partner program.
6. The Governor may appoint additional members to the Council, including, but not limited to, representatives of a One Stop Partner program where no lead state agency has responsibility for the program or state agency officials responsible for economic development, child support, juvenile justice, or rehabilitation programs in this state.

G. The following state officers shall be ex officio, voting members of the Council:

1. The Director of the Department of Community Health.
2. The Director of the Department of Labor and Economic Growth.
3. The Director of the Family Independence Agency.
4. The Superintendent of Public Instruction.

H. As required under Section 111(b)(2) of the federal Workforce Investment Act, 29 USC 2821(b)(2), members of the Council appointed under Sections II.C to II.G that represent organizations, agencies, or other entities shall be individuals with optimum policy making authority within the organizations, agencies, or entities. For purposes of this Section II, an individual with “optimum policy making

authority” is an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or represents and to commit that entity to a chosen course of action.

I. As required under Section 111(b)(2) of the federal Workforce Investment Act, 29 USC 2821(b)(2), members of the Council appointed under Sections II.C to II.G shall also represent diverse regions of this state, including urban, rural, and suburban areas.

J. As required under Section 111(b)(3) of the federal Workforce Investment Act, 29 USC 2821(b)(3), a majority of the members of the Council shall be members appointed under Section II.F.1.

K. Of the 2 Council members initially appointed by the Speaker of the House of Representatives under Section II.D, 1 member shall be appointed for a term expiring on April 30, 2005, and 1 member shall be appointed for a term expiring on April 30, 2006. Of the 2 Council members initially appointed by the Lieutenant Governor under Section II.E, 1 member shall be appointed for a term expiring on April 30, 2007, and 1 member shall be appointed for a term expiring on April 30, 2008. Of the Council members initially appointed by the Governor under Section II.F, approximately 25% of the members shall be appointed for a term expiring on April 30, 2005, approximately 25% of the members shall be appointed for a term expiring on April 30, 2006, approximately 25% of the members shall be appointed for a term expiring on April 30, 2007, and approximately 25% of the members shall be appointed for a term expiring on April 30, 2008. After the expiration of the initial terms under this Section II.J, Council members shall be appointed for four-year terms expiring on April 30.

L. To encourage coordination and cooperation between the Council and the Michigan Economic Development Corporation, and the more effective alignment of workforce and economic development efforts in this state, not less than 2 of members appointed under Sections II.F.1 to II.F.6 shall also be members of the Executive Committee of the Board of Directors of the Michigan Economic Development Corporation.

M. As required under Section 111(c) of the federal Workforce Investment Act, 29 USC 2821(c), the Governor shall designate from among the members appointed under Section II.F.1 a Chairperson for the Council. The Chairperson shall serve as Chairperson at the pleasure of the Governor.

N. The Governor shall designate from among the members of the Council a Vice-Chairperson who shall serve as Vice Chairperson at the pleasure of the Governor and act as Chairperson of the Council in the absence of the Chairperson.

O. A vacancy on the Council created other than by the expiration of the term of a member of the Council shall be filled in the same manner as the original appointment, for the remainder of the unexpired term. A member may be reappointed for additional terms.

### **III. CHARGE TO THE COUNCIL**

A. The Council is advisory in nature and shall advise and assist the Governor regarding compliance with the federal Workforce Investment Act of 1998, 29 USC 2801 to 9201 (“Act”) and any regulations issued pursuant to the Act, including, but not limited to, each of the following:

1. The development of a state plan outlining a 5-year strategy for the Statewide Workforce Investment System for this state, as required under Section 112 of the federal Workforce Investment Act of 1998, 29 USC 2822.
  2. The development and continuous improvement of a Statewide Workforce Investment System.
  3. To the extent required under federal law, commenting at least once annually on any measures taken under Section 113(b)(14) of the federal Carl D. Perkins Vocational and Applied Technology Education Act, 20 USC 2323(b)(14), or any successor statute.
  4. Designation of Local Areas as required under Section 116 of the federal Workforce Investment Act of 1998, 29 USC 2831.
  5. Development of allocation formulas for the distribution of funds for Adult Employment and Training Activities and Youth Activities to Local Areas as permitted under Sections 128(b)(3)(B) and 133(b)(3)(B) of the federal Workforce Investment Act of 1998, 29 USC 2853(b)(3)(B) and 2863(b)(3)(B).
  6. Development and continuous improvement of comprehensive State Performance Measures, including State Adjusted Levels of Performance to assess the effectiveness of Workforce Investment Activities in this state as required under Section 136(b) of the federal Workforce Investment Act of 1998, 29 USC 2871(b).
  7. Preparation of an annual report to the Secretary of the United States Department of Labor, as described in Section 136(d) of the federal Workforce Investment Act of 1998, 29 USC 2871(d).
  8. Development of the statewide employment statistics system described under section 15(e) of the federal Wagner-Peyser Act, 20 USC 491-2(e).
  9. Development of an application and application process for an incentive grant under Section 503 of the federal Workforce Investment Act of 1998, 20 USC 9273.
- B. In addition to complying with the requirements of Section III.A, the Council shall also advise the Governor on broader standards to assess the effectiveness of the broader workforce development efforts that include Michigan universities, community colleges, and K-12 schools, as well as state- and federally-funded workforce development programs.
- C. The Council also shall advise the Governor and the Director of the Department of Labor and Economic Growth on the operation of the following programs:
1. The Work First Program, authorized under Section 57f of The Social Welfare Act, 1939 PA 280, MCL 400.57f, or any successor statute.
  2. The Food Stamp Employment and Training Program authorized under the Section 6(d) of the federal Food Stamp Act of 1977, 7 USC 2015(d).
  3. The North American Free Trade Agreement (NAFTA) Transitional Adjustment Assistance Program authorized under Chapter 2 of Title II of the federal Trade Act of 1974, 19 USC 2271 to 2331.

4. Adult Education Programs and Adult Learning Systems under Sections 107 and 107b of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1707 and MCL 388.1707b, to the extent the programs are authorized under Michigan law.

D. In exercising its duties under this Order, the Council may provide policy advice across workforce areas, including traditional adult workforce development, community colleges, career and technical education, and workforce elements of economic development.

E. As requested by the Governor, the Council shall also advise the Governor and the Department of Labor and Economic Growth regarding policies in workforce development, adult education, career and technical education, community colleges, and the workforce elements of economic development. In exercising its duties under this Order, the Council shall endeavor to develop a unified state policy dialogue involving local workforce boards, universities, community colleges, K-12 schools, and other key stakeholders.

F. The Council shall provide other information, advice, or assistance as requested by the Governor.

#### **IV. OPERATIONS OF THE COUNCIL**

A. The Council may promulgate bylaws, not inconsistent with federal law, Michigan law, or this Order, governing its organization, operation, and procedures.

B. The Council shall be staffed by personnel from and assisted by the Department of Labor and Economic Growth. The Michigan Economic Development Corporation may assist the Council in performing its functions if authorized under an agreement between the Michigan Economic Development Corporation and the Department of Labor and Economic Growth or the Michigan Strategic Fund.

C. The Council shall meet at the call of the Chairperson and as may be provided in procedures adopted by the Council. Meetings of the Council shall be held within the State of Michigan. A member of the Council appointed under Section II.F failing to comply with attendance requirements adopted by the Council shall resign or may be removed from office by the Governor prior to the expiration of his or her term for failure to meet the responsibilities and perform the duties of his or her office.

D. A majority of the members of the Council constitutes a quorum for the transaction of business. The Council shall act by majority vote of serving members participating in a meeting. To the extent authorized by Michigan law, the Council may authorize members to participate in a Council meeting by the use of telephonic or video equipment. Members participating in a meeting via telephonic or video equipment shall be deemed present at the meeting. Voting shall be conducted in person or by use of telephonic or video equipment.

E. The Council may establish committees and subcommittees and request public participation on advisory panels as it deems necessary. The Council may adopt, reject, or modify recommendations made by committees, subcommittees, or advisory panels.



F. The Council may, as appropriate, make inquiries, studies, investigations, hold hearings, and receive comments from the public.

G. Members of the Council shall serve without compensation. Members of the Council may receive reimbursement for necessary travel and expenses according to relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Management and Budget, subject to available appropriations.

H. As required under Section 111(f) of the federal Workforce Investment Act of 1998, 29 USC 2821(f), a member of the Council may not do any of the following:

1. Vote on a matter under consideration by the Council regarding the provision of services by the member or an entity the member represents.

2. Vote on a matter under consideration by the Council that would provide direct financial benefit to the member or the immediate family of the member. As used in this paragraph, “family” means that term as defined under Section 101(15) of the federal Workforce Investment Act of 1998, 29 USC 2801(15).

3. Engage in any other activity determined by the Governor to constitute a conflict of interest, as specified in the state plan outlining a 5-year strategy for the Statewide Workforce Investment System for this state, as required under Section 112 of the federal Workforce Investment Act of 1998, 29 USC 2822.

I. To assure full compliance with the sunshine requirements under Section 111(g) of the federal Workforce Investment Act of 1998, 29 USC 2821(g), meetings of the Council shall be held according to procedures established under the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.

J. To assure full compliance with the sunshine requirements under Section 111(g) of the federal Workforce Investment Act of 1998, 29 USC 2821(g), the Council is a public body under, and shall comply with, the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

K. The Council shall adopt bylaws, policies, or procedures necessary for the implementation and enforcement of the requirements under Section IV.H, IV.I, and IV.J.

L. The Council may hire or retain contractors, sub-contractors, advisors, consultants and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties, as the Director of the Department of Labor and Economic Growth deems advisable and necessary in accordance with the relevant statutes, rules, and procedures of the Civil Service Commission and the Department of Management and Budget.

M. The Council may accept donations of labor, services, or other things of value from any public or private agency or person.

N. Members of the Council shall refer all legal, legislative, and media contacts to the Department of Labor and Economic Growth.

## **V. RESCISSIONS**

A. The Governor's Workforce Investment Board established under Executive Order 2002-5, MCL 408.101, is abolished. Executive Order 2002-5 is rescinded in its entirety.

B. The Governor's Workforce Commission established under Executive Order 1994-26, MCL 408.48, is abolished.

## **VI. MISCELLANEOUS**

A. All departments, committees, commissioners, or officers of this state or of any political subdivision of this state shall give to the Council, or to any member or representative of the Council, any necessary assistance required by the Council, or any member or representative of the Council, in the performance of the duties of the Council so far as is compatible with its, his, or her duties. Free access shall also be given to any books, records, or documents in its, his, or her custody, relating to matters within the scope of inquiry, study, or investigation of the Council.

B. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before any appropriate successor of an entity affected by this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder the order.

This Order is effective upon filing.

Given under my hand and the Great Seal of the State of Michigan this 6th day of December in the year of our Lord, two thousand and four.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR:

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SECRETARY OF STATE

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER No.2004 – 37**

**RESCISSION OF EXECUTIVE ORDER 2004-35**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963, order that Executive Order 2004-35 is rescinded in its entirety.

This Order is effective upon filing.

Given under my hand and the Great Seal of the State of Michigan this 9th day of December in the year of our Lord, two thousand and four.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR

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SECRETARY OF STATE

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**EXECUTIVE ORDERS**

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**EXECUTIVE ORDER No.2004 – 38**

**FAMILY INDEPENDENCE AGENCY  
DEPARTMENT OF HUMAN SERVICES  
EXECUTIVE REORGANIZATION**

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Department of Social Services was created as a principal department of state government by Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550;

WHEREAS, the Department of Social Services was renamed the Family Independence Agency by 1995 PA 223, MCL 400.1;

WHEREAS, the Family Independence Agency is the state's public assistance, child, and family welfare agency focused on protecting children and vulnerable adults, delivering juvenile justice services, and providing support to strengthen families and individuals;

WHEREAS, renaming the Family Independence Agency will more effectively communicate its status as a principal department and its mission focused on the provision of social services for families, children, and other Michigan residents in need;

WHEREAS, it is necessary in the interests of efficient administration and effective government to make changes in the organization of the Executive Branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order:

A. The Family Independence Agency is renamed the Department of Human Services.

B. Any and all statutory references to the Family Independence Agency or the Department of Social Services shall be deemed references to the Department of Human Services.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order is effective March 15, 2005.

Given under my hand and the Great Seal of the State of Michigan this 9th day of

December in the year of our Lord, two thousand and four.

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JENNIFER M. GRANHOLM  
GOVERNOR

BY THE GOVERNOR

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SECRETARY OF STATE

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**OPINIONS OF THE  
ATTORNEY GENERAL**

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*MCL 14.32 states in part:*

*“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(j) Attorney general opinions. ”*



The Court further stated that the former Department of Public Health (now Department of Community Health) "is responsible for developing, coordinating, and administering a statewide emergency system, but supervision of emergency medical services is the responsibility of the local MCAs." *Id.*, at 502, citing MCL 333.20920(1)(a) and 333.20906. See also, OAG, 1991-1992, No 6727, p 170 (August 21, 1992) (stating that "the Legislature has established these medical control authorities as local units").

In addition, MCAs are empowered to establish written protocols, which are defined by section 20908(9) of the Public Health Code:

"Protocol" means a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department under section 20919. [MCL 333.20908(9).]

Specifically, MCL 333.20919(1)(a)-(c) provides that the protocols shall include all of the following:

(a) The acts, tasks, or functions that may be performed by each type of emergency medical services personnel licensed under this part.

(b) Medical protocols to ensure the appropriate dispatching of a life support agency based upon medical need and the capability of the emergency medical services system.

(c) Protocols for complying with the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067.

In order to implement emergency medical services in their geographic regions, MCAs are required to submit written drafts of proposed protocols to the Department for review and approval prior to adoption and implementation. MCL 333.20919(1) and 333.20919(3)(a)-(d).

In summary, the MCAs are local units connected with participating hospitals that are created and empowered under Part 209 of the Public Health Code to supervise the delivery of emergency medical services and to govern the practice of licensed emergency medical services personnel in an area designated by the Department.

The Open Meetings Act provides that a "state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function" constitutes a "public body" subject to the OMA. MCL 15.262(a). As evidenced by its title, the OMA applies only to public bodies. OAG, 1977-1978, No 5207, p 157 (June 24, 1977).

The purpose of the OMA is "to promote a new era in governmental accountability" and to foster "openness in government as a means of promoting responsible decision making." *Booth Newspapers, Inc v University of Michigan Bd of Regents*, 444 Mich 211, 222-223; 507 NW2d 422 (1993). Toward that end, the OMA provides that "[a]ll decisions of a public body shall be made at a meeting open to the public" and "[a]ll deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public [with limited exceptions]." MCL 15.263(2) and (3). "Decision" means "a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote by members of a public body is required and by which a public body effectuates or formulates public policy." MCL 15.262(d).



Although the OMA's definition of public body is comprehensive, those bodies that are not empowered by law to exercise governmental or proprietary authority fall outside its scope. *Arnold Transit Co v City of Mackinac Island*, 415 Mich 362; 329 NW2d 712 (1982); *Booth Newspapers, Inc v Wyoming City Council*, 168 Mich App 459; 425 NW2d 695 (1988). Prior opinions of this office have consistently concluded that the definition of public body does not include advisory boards or committees of a public body that do not exercise governmental or proprietary authority. OAG, 1997-1998, No 6935, p 18 (April 2, 1997); OAG, 1981-1982, No 6053, p 616 (April 13, 1982); OAG, 1979-1980, No 5505, p 221 (July 3, 1979); OAG, 1977-1978, No 5183, pp 21, 40 (March 8, 1977).

In *Lansing Mercy Ambulance Service v Tri-County Emergency Medical Control Auth*, 893 F Supp 1337, 1345 (WD Mich, 1995), the Court determined that "the functions performed by [an MCA] are governmental in nature, as it is regulating the provision of EMS [emergency medical services] in the region, not just developing better methods of providing services, and such regulation is mandated by Michigan statute, and its decisions and protocols have the force of law."

While a primary function of the MCAs is to develop protocols that are subject to Department approval, the statutory procedures established for the development, adoption, and enforcement of those protocols clearly indicate that the MCAs are assigned more than an advisory role in that process. Responsibility for the implementation and enforcement of protocols is placed squarely upon the MCAs. The Public Health Code authorizes and requires MCAs to make governmental decisions and to take actions to regulate and control the provision of emergency medical services. MCL 333.20919.

It is my opinion, therefore, that local medical control authorities are subject to the Open Meetings Act.

MIKE COX  
Attorney General

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**OPINIONS OF THE ATTORNEY GENERAL**

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EXECUTIVE ORDERS: Legislature's time for disapproving  
executive reorganization orders

CONSTITUTIONAL LAW:

LEGISLATURE:

CONST 1963, ART 5, § 2:

Where fewer than 60 calendar days remain in the regular session of a Legislature sitting in an even-numbered year upon submission of an executive reorganization order of the Governor, the requirement of Const 1963, art 5, § 2 that the Legislature "shall have 60 calendar days of a regular session" to disapprove the order cannot be satisfied. Assuming the Legislature does not adopt a resolution disapproving an executive order submitted under these circumstances, the order may only take effect upon the expiration of 60 calendar days commencing in the next regular session of the Legislature.

Opinion No. 7166

December 28, 2004

Honorable Ken Sikkema  
State Senator  
The Capitol  
Lansing, MI 48909

You ask a question regarding the Legislature's time for disapproving executive reorganization orders submitted by the Governor under Const 1963, art 5, § 2.

You advise that, on November 12, 2004, the Governor submitted to the 2004 regular session of the Legislature Executive Order 2004-35 (EO 2004-35), bearing an effective date of January 30, 2005.<sup>1</sup> The Legislature is scheduled to adjourn *sine die* (without day) on December 29, 2004, allowing a period of only 47 calendar days in the 2004 regular session of the Legislature to consider this order. Your letter indicates that an additional period of 18 calendar days could be available for consideration of EO 2004-35 (from January 12, 2005, the constitutionally required date for the convening of the 2005 session of the Legislature, through the order's effective date of January 30, 2005) if consideration of EO 2004-35 may be carried over to the 2005 regular session.

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<sup>1</sup> EO 2004-35 seeks to make a change in the organization of the executive branch by renaming the Family Independence Agency as the Department of Human Services. Pursuant to standard procedure, a copy of your request was provided to the Governor's office. Subsequently, on December 9, 2004, the Governor issued Executive Order 2004-37, which rescinded Executive Order 2004-35 in its entirety. On that same date, the Governor issued Executive Order 2004-38, which is identical in substance to EO 2004-35, except that it bears an effective date of March 15, 2005. It is recognized that Executive Order 2004-38 now affords the 2005 Legislature a full 60-day disapproval period for considering this new order. This opinion nevertheless provides the requested guidance to address a question of first impression that may recur.

Const 1963, art 5, § 2, provides that the Legislature "shall have 60 calendar days of a regular session" to disapprove an executive reorganization order submitted by the Governor. You ask whether the 60-day requirement must be satisfied within a single regular session or whether, where fewer than 60 calendar days remain in the regular session to which the order is submitted, the requisite days may be counted by extending the disapproval period into the next regular session.

Analysis of your question begins with the language of Const 1963, art 5, § 2, which states in relevant part:

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. *Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order.* Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor. [Emphasis added.]

The primary rule for interpreting Michigan's constitution is to construe the provision in "the sense most obvious to the common understanding," the one that "reasonable minds, the great mass of people themselves, would give it." *Traverse City School Dist v Attorney General*, 384 Mich 390, 405; 185 NW2d 9 (1971), quoting *Cooley's Const Lim* 81 (emphasis deleted from original). If the language of the provision is plain, it is that plain meaning that courts give to it. *Phillips v Mirac*, 470 Mich 415, 422; 685 NW2d 174 (2004); *Michigan Coalition of State Employee Unions v Michigan Civil Service Comm*, 465 Mich 212, 222; 634 NW2d 692 (2001); *Bond v Ann Arbor School Dist*, 383 Mich 693, 699; 178 NW2d 484 (1970). Consideration may also be given to the circumstances surrounding the adoption of the constitutional provision and the purpose sought to be accomplished. *Bolt v Lansing*, 459 Mich 152, 160; 587 NW2d 264 (1998). One of the most instructive tools for discerning the circumstances surrounding the adoption of a constitutional provision is the floor debates in the Official Record of the Constitutional Convention to the extent they reveal a "recurring thread of explanation." *House Speaker v Governor*, 443 Mich 560, 581; 506 NW2d 190 (1993) (citation omitted). Though not controlling, the "Address to the People" is also relevant in interpreting the constitution. *People v Nash*, 418 Mich 196, 209; 341 NW2d 439 (1983).

Research has disclosed no court case or opinion of the Attorney General construing the precise constitutional language at issue in your question. The text of art 5, § 2, however, plainly provides that the Legislature "shall"<sup>2</sup> have one of two alternative periods of time within which to disapprove an executive order: 1) 60 calendar days of a regular session; or 2) a "full" regular session if the regular session is one whose duration is shorter than 60 calendar days.

The constitution itself provides the meaning of the term "regular session" at Const 1963, art 4, § 13: The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next

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<sup>2</sup> The courts have long held that the popular and common understanding of the word "shall" denotes that which is mandatory. *Browder v Int'l Fidelity Ins Co*, 413 Mich 603, 612; 321 NW2d 668 (1982), citing *Smith v School Dist No 6, Fractional, Amber Twp*, 241 Mich 366, 369; 217 NW 15 (1928).

regular session. [See also *Mason's Manual of Legislative Procedure*, § 203, p 163 (2000 edition) (houses of state legislatures "convene at the date fixed by the constitution and continue in session until adjournment sine die").]

According to this section, a "regular session" of the Legislature convenes at twelve o'clock noon on the second Wednesday in January of each year and continues until twelve o'clock noon of the day fixed by concurrent resolution for *sine die* or final adjournment.

The term "calendar day" as used elsewhere in the 1963 Constitution has also been defined. Addressing a question involving Const 1963, art 11, § 5, and employing the "common understanding" rule of constitutional construction, OAG, 1981-1982, No 6048, p 595 (March 18, 1982), concluded that the term means "the time from midnight to midnight" or "the space of time between two consecutive or successive midnights." *Id.*, at pp 595-596.

The remaining language of the provision at issue, "or a full regular session if of shorter duration," represents an alternative object of the verb "have"; in other words, the Legislature shall have either 60 calendar days of a regular session to disapprove an executive reorganization order or it shall have a "full" regular session to disapprove an executive reorganization order if that session is of shorter duration than 60 calendar days. Again, while research has uncovered no court case or opinion of the Attorney General examining this language, the words used are clear and unambiguous and must be interpreted according to their plain meaning. While in the years since adoption of the 1963 Constitution it does not appear that any regular session has been of shorter duration than 60 calendar days, nothing in the language of Const 1963, art 4, § 13 quoted above precludes this result.<sup>3</sup> Indeed, information provided to this office documenting the session days of previous legislatures indicates that the regular sessions of the 1948, 1946, 1944, 1942, 1934, and 1932 Legislatures, among others, consisted of fewer than 60 days. See also Michigan Manual 2003-2004, p 292.

This experience presumably prompted the framers to address this possible contingency with respect to executive reorganization.<sup>4</sup>

In that your request does not involve a regular session of fewer than 60 calendar days, the question becomes whether the 60 calendar days that must be afforded the Legislature to consider EO 2004-35 may be counted by continuing the constitutional disapproval period into the 2005 session of the Legislature. Although not dispositive, art 5, § 2 uses the singular "*a* regular session," suggesting that the

<sup>3</sup> This is also true of the Legislature's current rules of procedure. Joint Rule 26 governs the Final Adjournment of Regular Sessions and provides: "In the regular session in each year, this rule for adjournment shall govern. The Majority Floor Leader of the Senate and/or the Majority Floor Leader of the House of Representatives shall introduce a concurrent resolution providing for an adjournment schedule for the Legislature for that regular session."

<sup>4</sup> Art 5, § 2 originated as Proposal 71 of the Committee on the Executive Branch. As first offered, the sentence now at issue read: "The Legislature shall have 60 days of a regular session, or a full session if of shorter duration, to disapprove these executive orders." 1 Official Record, Constitutional Convention 1961, p 1766, column 2. While there was considerable debate on other aspects of art 5, § 2, a search of the Official Record has uncovered no proposed amendments or discussion addressing the language at issue in your question. It was twice changed, however, after referral to the Committee on Style and Drafting. On third reading, the following changes were incorporated as indicated by capitalized additions and bracketed deletions: "THEREAFTER, the legislature shall have 60 CALENDAR days of a regular session, or a full session if of shorter duration, to disapprove [these] EACH executive order[s]." 2 Official Record, Constitutional Convention 1961, p 3057, column 1, lines 27-30. The Committee on Style and Drafting reported the final version with the word "regular" inserted after the word "full." *Id.*, at p 3292, column 1, and the delegates adopted this version.

60 calendar days must be available to the Legislature within a single regular session. Nor does any other language of art 5, § 2 appear to authorize or contemplate the carryover of executive orders *between* legislative sessions.<sup>5</sup>

While the framers did not discuss the issue presented in your letter, the convention thoroughly debated the nature and extent of the power granted to the Governor in art 5, § 2, particularly in the context of what restraints should be placed on the Governor's exercise of the power. *Soap & Detergent Ass'n v Natural Resources Comm*, 415 Mich 728, 747; 330 NW2d 346 (1982). See also *House Speaker v Governor*, 443 Mich 560, 581-586; 506 NW2d 190 (1993). In connection with a proposed amendment that would have allowed an executive reorganization plan to be disapproved by a majority of *either* house, instead of both, one delegate commented that the traditional system of giving the Legislature the lawmaking function regarding executive reorganization and the Governor a veto was being turned upside down. *Soap & Detergent Ass'n*, 415 Mich, at p 747, n 10. In construing art 5, § 2, the Court in *Soap & Detergent* cited the "vigorously debated checks deemed necessary to restrain the broad grant of power," and emphasized the importance of the legislative veto: "Recognition of the broad powers of reorganization granted is found in the provisions for legislative veto of the Governor's reorganization executive orders." *Id.* Thus, in ascertaining whether the requisite disapproval period has been achieved, a construction should be favored that gives full effect to the Legislature's veto power.

In addition, the provisions of Const 1963, art 4, § 13 must be considered. As stated above, the pertinent part of this section provides that "[a]ny business, bill or joint resolution pending at the final adjournment of a regular session *held in an odd numbered year* shall carry over with the same status to the next regular session." (Emphasis added.) By its terms, this section does not authorize the carry-over of any business pending in an even-numbered year and, accordingly, does not authorize carry-over of the disapproval period for executive reorganization orders submitted near the end of an even-numbered year. See OAG, 1981-1982, No 6114, pp 779-780 (December 22, 1982) ("Bills pending upon a final adjournment in an even-numbered year do not . . . carry over to the next regular legislative session"). It is my opinion, therefore, that, where fewer than 60 calendar days remain in the regular session of a Legislature sitting in an even-numbered year upon submission of an executive reorganization order of the Governor, the requirement of Const 1963, art 5, § 2 that the Legislature "shall have 60 calendar days of a regular session" to disapprove the order cannot be satisfied. Assuming the Legislature does not adopt a resolution disapproving an executive order submitted under these circumstances, the order may only take effect upon the expiration of 60 calendar days commencing in the next regular session of the Legislature.

MIKE COX  
Attorney General

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<sup>5</sup> The Address to the People concerning the relevant language of art 5, § 2 does not address this question. It only states that the Governor's proposed changes in the executive branch "become effective unless they are disapproved within 60 days by a majority of the members in both houses of the legislature." 2 Official Record, Constitutional Convention 1961, p 3379. Contrast the Address to the People explaining the provisions of Const 1963, art 5, § 6 relating to the Senate's advice and consent power. 2 Official Record, Constitutional Convention 1961, p 3379 (stating "[i]f fewer than 60 session days remain for consideration after submission of an appointment, the time available for possible disapproval will be extended into the next regular or special session for the balance of the specified period."). The record of the constitutional convention similarly fails to specifically address this question.

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**OPINIONS OF THE ATTORNEY GENERAL**

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RETIREMENT AND PENSIONS:                      Payment of pension to retirant upon return  
to state employment

Assuming a bona fide termination of employment, there is no legal basis for the State Employees' Retirement System to suspend the Tier 1 pension of a retirant who returns to State employment and is entered upon the payroll on or after December 1, 2002, as a "qualified participant" in the Tier 2 plan pursuant to section 13(3)(f) of the State Employees' Retirement Act.

Opinion No. 7167

December 29, 2004

Mr. Mitch Irwin, Director  
Department of Management and Budget  
Lewis Cass Building  
Lansing, Michigan 48909  
Lansing, MI 48909

Mr. Chris DeRose, Director  
Office of Retirement Services  
Department of Management and Budget  
Lewis Cass Building

You have asked if, assuming a bona fide termination of employment, there is a legal basis for the State Employees' Retirement System to suspend the Tier 1 pension of a retirant who returns to state employment and is entered upon the payroll on or after December 1, 2002, as a qualified participant pursuant to section 13(3)(f) of the State Employees' Retirement Act (Act), 1943 PA 240, MCL 38.1 *et seq.*, as amended by 2002 PA 743.

Historically, a public employee's pension was not considered a contractual obligation or a vested right. See *Brown v Highland Park*, 320 Mich 108, 114; 30 NW2d 798 (1948). However, this position was reversed with the adoption of Michigan's Constitution in 1963. Const 1963, art 9, § 24 prohibits the impairment of a state pension:

The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

In *Ass'n of Professional & Technical Employees v Detroit*, 154 Mich App 440; 398 NW2d 436 (1986), the City of Detroit proposed to increase the minimum age at which a person could retire, thereby delaying receipt of a city pension. The Court held that the framers intended Const 1963, art 9, § 24 "to protect pension benefits related to work already performed by current employees." *Id.*, at 446. As a result, the Court concluded that the city's proposed imposition of a minimum age requirement directly diminished and impaired plaintiffs' accrued financial benefits in violation of art 9, § 24. Thus, a retirant may not be unilaterally denied a retirement allowance for work previously performed unless the denial is based upon some provision in the law in effect when the retirant earned his or her service credit. *Id.*, at 446-447. See also OAG, 1967-1968, No 4365, p 55 (June 26, 1967).

MCL 38.13(1) states in pertinent part: "Except as otherwise provided in this act, membership in the retirement system consists of state employees occupying permanent positions in the state civil service." MCL 38.16(4) states: "If a member becomes a retirant or dies, he or she ceases to be a member." OAG, 1991-1992, No 6693, p 71

(August 16, 1991), relied on OAG, 1945-1946, No O-4106, p 675 (April 23, 1946),<sup>1</sup> to conclude that: [W]here a retiree is receiving an allowance under the Act and returns to state service and, therefore, again becomes a "member" under the Act, the person's allowance is suspended during the period of subsequent state employment.

Prior to the enactment of 1996 PA 487, all "members" were covered by the Act's defined benefit plan.<sup>2</sup> The defined benefit plan provides a fixed pension allowance based upon the employee's age, years of service, and final average compensation. MCL 38.20. 1996 PA 487 amended the Act to provide that all employees hired on or after March 31, 1997, are "qualified participants" in a defined contribution plan in which the State contributes an amount equal to 4% of the participant's compensation and will match up to an additional 3% of the participant's contributions.<sup>3</sup> MCL 38.63. No fixed retirement allowance is provided by the State under this plan.

MCL 38.13(3), as added by 2002 PA 743, provides in pertinent part:  
Membership in the [Tier 1] retirement system does not include any of the following:

\* \* \*

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

\* \* \*

(f) A retirant who again becomes employed by the state and is entered upon the payroll on or after December 1, 2002, for employment for which the retirant would have been eligible for membership under this section before December 1, 2002. A retirant described in this subsection shall be a qualified participant in Tier 2 subject to sections 50 to 69.

Thus, a state retirant who returns to state employment on or after December 1, 2002, does not again become a "member" in the retirement system upon reemployment. Rather, the retirant becomes a

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<sup>1</sup> In reaching this conclusion, OAG No 6693 also relied on language in the Act to the same effect as the current language in MCL 38.16(4), as did OAG No O-4106.

<sup>2</sup> The Act's defined benefit plan is now also known as "Tier 1." MCL 38.1i(3) defines "Tier 1" to mean:

[T]he retirement plan available to a member under this act who was first employed and entered upon the payroll before March 31, 1997 and who does not elect to become a qualified participant of Tier 2.

<sup>3</sup> The Act's defined contribution plan is also known as "Tier 2." MCL 38.1i(4) defines "Tier 2" to mean:

[T]he retirement plan established pursuant to section 401(k) of the internal revenue code that is available to qualified participants under sections 50 to 69.

"qualified participant" in the Act's defined contribution plan. MCL 38.13(3)(f). In other words, at the time the retirant returns to work, he or she becomes a participant in a different retirement plan than the plan from which he or she draws a retirement allowance. MCL 38.16(4) provides no authority for the retirement system to suspend a retirant's Tier 1 pension in that instance.<sup>4</sup> The Act does not provide any prohibition against continuing to pay the Tier 1 pension of a retiree who returns to state employment on or after December 1, 2002, as a "qualified participant" in the Tier 2 plan. The conclusions reached in OAG No 6693 and OAG No O-4106 do not, therefore, apply to the instant situation.

Your question assumes a "bona fide termination of employment." In Internal Revenue Service (IRS) Revenue Ruling 56-693, 1956-2 CB 282, the IRS discussed the receipt of retirement benefits absent a bona fide termination of employment, ruling that:

[A] pension plan which permits the participants, prior to any severance of employment (e.g. retirement; disability or death) to withdraw all or a part of the funds accumulated on their behalf is inconsistent with the accepted concept of a pension plan which meets all of the requirements of section 401(a) of the [Internal Revenue] Code.

This conclusion was reaffirmed in IRS Revenue Ruling 74-254, 1974-1 CB 91. More recently, in IRS Information Letter 2000-0245 (September 6, 2000), the IRS concluded that, while there is no definitive rule prohibiting the rehiring of an employee who has received a distribution from the employee's retirement 401(k) plan, the plan may not make such a distribution unless there is a "bona fide termination of employment in which the employer/employee relationship is *completely severed*." According to the IRS letter, if an employee terminates employment with the intent to be reemployed by the employer on a part-time or contingent basis, there is no severance of employment.

MCL 38.49(1), as added by 1995 PA 176, establishes the Legislature's intention that the State Employees' Retirement System be maintained as a qualified pension plan under the Internal Revenue Code:

This section is enacted pursuant to section 401(a) of the internal revenue code, 26 USC 401, that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code, 26 USC 401, and that the trust be an exempt organization under section 501 of the internal revenue code, 26 USC 501. The department shall administer the retirement system to fulfill this intent.

26 USC 401(a) and 26 CFR 1.401-1 define a qualified pension plan as a plan established and maintained by an employer primarily to provide for payments to employees after retirement.

Where there has been a bona fide severance of a retirant's employment, payment of a pension allowance to the retirant during his or her reemployment with the State would be consistent with the intent of MCL 38.49 to maintain the qualified status of the plan under 26 USC 401. If, however, there has been no bona fide termination of employment prior to the rehiring of a retirant, payment of a pension allowance to such an individual could jeopardize the qualified status of the plan and present issues regarding that individual's entitlement to payment of that allowance.<sup>5</sup>

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<sup>4</sup> This opinion does not address whether a suspension of retirement benefits can be imposed as a condition of reemployment.

<sup>5</sup> This conclusion would not apply in the case of a deferred retirement option plan. For a discussion of deferred retirement plans, see OAG, 2003-2004, No 7122, p \_\_\_\_ (January 14, 2003). The Act does not currently provide for a deferred retirement option plan.



It is my opinion, therefore, that, assuming a bona fide termination of employment, there is no legal basis for the State Employees' Retirement System to suspend the Tier 1 pension of a retirant who returns to State employment and is entered upon the payroll on or after December 1, 2002, as a "qualified participant" in the Tier 2 plan pursuant to section 13(3)(f) of the State Employees' Retirement Act.

MIKE COX  
Attorney General

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2004 SESSION)**

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*Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”*

*Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”*

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**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2004 SESSION)**

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1	4802		Yes	12-Feb	12-Feb	2/12/2004	<b>Communications</b> ; telecommunications; prohibited conduct with regard to telecommunications access; clarify a potential unintended consequence. <b>(Rep. J. Koetje)</b>
2	4916		Yes	12-Feb	12-Feb	2/12/2004	<b>Criminal procedure</b> ; sentencing guidelines; prohibited conduct with regard to telecommunications access; amend. <b>(Rep. J. Koetje)</b>
3	4236		Yes	17-Feb	18-Feb	7/1/2004	<b>Occupations</b> ; individual licensing and regulation; respiratory therapists; provide for licensure. <b>(Rep. S. Ehardt)</b>
4	5244		Yes	19-Feb	19-Feb	12/31/2003	<b>Property tax</b> ; personal property; special tools; revise definitions. <b>(Rep. M. Middaugh)</b>
5	4340		Yes	20-Feb	20-Feb	2/20/2004	<b>Retirement</b> ; public school employees; eligibility date for employment of retirant in a reporting unit; revise. <b>(Rep. B. Caswell)</b>
6	4659		Yes	20-Feb	20-Feb	2/20/2004	<b>Law enforcement</b> ; local police; definition of medical first responder; revise. <b>(Rep. C. DeRoche)</b>
7	4965		Yes	20-Feb	20-Feb	2/20/2004	<b>Insurance</b> ; health; transferring of patients before stabilization; prohibit. <b>(Rep. S. Ehardt)</b>
8	4966		Yes	20-Feb	20-Feb	2/20/2004	<b>Insurance</b> ; health care corporations; transferring patients before stabilization; prohibit. <b>(Rep. L. Wojno)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
9		334	Yes	26-Feb	26-Feb	2/26/2004	<b>Transportation</b> ; funds; transferring funds from major street fund to local street fund without limitation of matching funds from local entity; allow. <b>(Sen. M. Switalski)</b>
10	4276		Yes	26-Feb	26-Feb	2/26/2004	<b>Holidays</b> ; Holocaust remembrance week in the state of Michigan; establish. <b>(Rep. M. Shulman)</b>
11	5009		Yes	26-Feb	26-Feb	2/26/2004	<b>Counties</b> ; boards and commissions; membership on the county committee of veterans' affairs; revise. <b>(Rep. J. Hoogendyk)</b>
12	5129		Yes	26-Feb	26-Feb	6/1/2004	<b>Courts</b> ; juries; procedures for selecting persons for jury service; revise. <b>(Rep. J. Howell)</b>
13	5179		Yes	26-Feb	26-Feb	2/26/2004	<b>Elections</b> ; polling places; polling places outside of township boundaries; allow under certain circumstances. <b>(Rep. G. Newell)</b>
14		826	Yes	26-Feb	26-Feb	2/26/2004	<b>Counties</b> ; employees and officers; certain provisions relating to the board of county auditors for the county of Saginaw; repeal. <b>(Sen. M. Goschka)</b>
15		801	Yes	4-Mar	4-Mar	3/4/2004	<b>State</b> ; publications; number of paper copies of the public and local act books; reduce. <b>(Sen. J. Allen)</b>
16		275	Yes	4-Mar	4-Mar	3/4/2004	<b>Economic development</b> ; renaissance zones; extending boundaries of an existing renaissance zone in the city of Coldwater; provide for. <b>(Sen. C. Brown)</b>
17		780	Yes	4-Mar	4-Mar	3/4/2004	<b>Economic development</b> ; local development financing; urban township definition; modify. <b>(Sen. N. Cassis)</b>

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18	5183		Yes	4-Mar	4-Mar	3/4/2004	<b>Human services</b> ; children's services; foster care youth networks; establish. <b>(Rep. J. Stahl)</b>
19	4887		Yes	4-Mar	4-Mar	6/2/2004	<b>Traffic control</b> ; accidents; authorized emergency vehicles; include road service vehicle under certain circumstances. <b>(Rep. J. Pastor)</b>
20		681	Yes	4-Mar	4-Mar	3/4/2004	<b>Criminal procedure</b> ; preliminary examination; witness testimony by telephonic, voice, or video conferencing; allow. <b>(Sen. D. Cherry)</b>
21		512	Yes	9-Mar	10-Mar	1/1/2005 #	<b>Cemeteries and funerals</b> ; other; preneed cemeteries and merchandise services; provide for under the prepaid funeral act. <b>(Sen. L. Toy)</b>
22		513	Yes	9-Mar	10-Mar	1/1/2005 #	<b>Cemeteries and funerals</b> ; other; transferring preneed sales to combined act; provide for and make certain revisions. <b>(Sen. L. Toy)</b>
23		800	Yes	10-Mar	10-Mar	3/10/2004	<b>Administrative procedure</b> ; rules; use of electronic transmission of certain records and notices; provide for. <b>(Sen. J. Allen)</b>
24	5154		Yes	10-Mar	10-Mar	3/10/2004	<b>Environmental protection</b> ; toxic substances or products; uses of pesticides at schools and day care centers; revise notice provisions. <b>(Rep. E. Gaffney)</b>
25		842	Yes	15-Mar	16-Mar	6/14/2004	<b>Crimes</b> ; other; purchasing, selling, possessing, or using a portable signal preemption device; prohibit and provide penalties. <b>(Sen. T. Stamas)</b>

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26		843	Yes	15-Mar	16-Mar	6/14/2004 #	<b>Criminal procedure</b> ; sentencing guidelines; sentencing guidelines for crime of buying, selling, possessing, or using a portable signal preemption device; enact. (Sen. J. Gilbert)
27		703	Yes	15-Mar	16-Mar	3/16/2004	<b>Watercraft; personal</b> ; types of personal flotation devices children age 12 and under must wear when riding on or being towed behind a personal watercraft; expand to include type III. (Sen. M. McManus)
28		588	Yes	15-Mar	16-Mar	9/16/2004	<b>Insurance</b> ; health; provision for timely payment of health care benefits; expand to include home health care providers and durable medical equipment providers. (Sen. S. Johnson)
29	4352		Yes	19-Mar	22-Mar	3/22/2004	<b>Vehicles</b> ; snowmobiles; headlight lens caps; prohibit. (Rep. S. Shackleton)
30	4675		Yes	19-Mar	22-Mar	3/22/2004	<b>Occupations</b> ; dental hygienists; nitrous oxide analgesia administration; allow under certain circumstances and provide for assistance and monitoring by dental assistants fulfilling certain requirements. (Rep. B. Vander Veen)
31	4871		Yes	19-Mar	22-Mar	7/1/2004	<b>Civil procedure</b> ; costs and fees; statutory attorney fees in landlord-tenant eviction and land contract forfeiture actions; revise. (Rep. R. Jamnick)
32	5199		Yes	19-Mar	22-Mar	6/30/2004	<b>Criminal procedure</b> ; pretrial procedure; release of individual convicted of criminal sexual conduct against minor on bail pending sentencing or appeal; prohibit. (Rep. L. Drolet)

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33	5266		Yes	19-Mar	22-Mar	3/22/2004	<b>Retirement</b> ; state employees; banked leave time program; implement. <b>(Rep. P. Condino)</b>
34		498	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; solid waste; prohibited products in landfills; expand to include beverage containers and whole tires. <b>(Sen. P. Birkholz)</b>
35		497	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; solid waste; beverage container; define. <b>(Sen. S. Thomas)</b>
36		57	Yes	26-Mar	29-Mar	3/29/2004	<b>Environmental protection</b> ; solid waste; transportation or disposal of waste posing threat to health, safety, or environment; authorize department of environmental quality director to prohibit by order. <b>(Sen. M. Bishop)</b>
37		502	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; landfills; jurisdictions with landfill disposal prohibition at least as restrictive as Michigan's; require department of environmental quality to prepare list of. <b>(Sen. N. Cassis)</b>
38		506	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; landfills; out-of-state or out-of-country waste; prohibit unless prohibited waste has been removed or the other state or province has solid waste stream standards as stringent as Michigan's. <b>(Sen. B. Patterson)</b>
39		557	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; landfills; waste received and remaining disposal capacity; require landfills to report. <b>(Sen. L. Brater)</b>

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40	5234		Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; landfills; out-of-state waste; establish requirements for disposal of. <b>(Rep. D. Acciavatti)</b>
41		500	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; solid waste; subsequent violations of solid waste law; provide for increased fines. <b>(Sen. D. Olshove)</b>
42	5235		Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; solid waste; items prohibited from landfill disposal; require solid waste haulers to notify customers of. <b>(Rep. D. Robertson)</b>
43		499	Yes	26-Mar	29-Mar	3/29/2004	<b>Environmental protection</b> ; landfills; inspections of landfills; enhance. <b>(Sen. A. Sanborn)</b>
44		715	Yes	26-Mar	29-Mar	3/29/2004 #	<b>Environmental protection</b> ; solid waste; solid waste management plan; revise authorized contents of. <b>(Sen. J. Gilbert)</b>
45	5386		Yes	1-Apr	1-Apr	4/1/2004	<b>Property</b> ; conveyances; certain state owned property in Jackson county; provide for transfer between state departments. <b>(Rep. C. Bisbee)</b>
46	4178		Yes	1-Apr	1-Apr	10/1/2003	<b>Law enforcement</b> ; peace officers; survivor benefits for certain public safety officers killed in the line of duty; provide. <b>(Rep. S. Shackleton)</b>
47	4706		Yes	1-Apr	1-Apr	4/1/2004	<b>Records</b> ; medical; medical records access act; create. <b>(Rep. B. Vander Veen)</b>
48	4755		Yes	1-Apr	1-Apr	4/1/2004 #	<b>Health</b> ; medical records; sanctions for violation of medical records access act; provide for. <b>(Rep. B. Vander Veen)</b>

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49	4707		Yes	1-Apr	1-Apr	4/1/2004	<b>Traffic control</b> ; parking; individuals authorized to issue citations to violators who illegally park in a handicapped parking space; expand. <b>(Rep. J. Voorhees)</b>
50	5279		Yes	1-Apr	1-Apr	*** #	<b>Retirement</b> ; state police; health advance funding, IRS changes; implement. <b>(Rep. F. Accavitti Jr.)</b>
51	5476		Yes	1-Apr	1-Apr	4/1/2004	<b>Education</b> ; employees; procedures and standards for summary suspension of teacher's certificate or state board approval of a person who has been convicted of certain crimes; revise. <b>(Rep. C. DeRoche)</b>
52	4308		Yes	1-Apr	1-Apr	5/1/2004	<b>Traffic control</b> ; violations; waiver of fine, costs, and assessments for certain no proof of insurance violations; provide for. <b>(Rep. J. Garfield)</b>
53	5200		Yes	7-Apr	8-Apr	4/8/04	<b>Holidays</b> ; "Willie Horton Day"; establish. <b>(Rep. R. Richardville)</b>
54	5117		Yes	12-Apr	12-Apr	4/12/04	<b>Health</b> ; testing; electronic laboratory reporting of blood lead testing; require. <b>(Rep. S. Ehardt)</b>
55	5119		Yes	12-Apr	12-Apr	4/12/04	<b>Human services</b> ; medical services; childhood lead screening by health professionals, facilities, and health maintenance organizations of certain children; require. <b>(Rep. C. Williams)</b>
56	5280		Yes	12-Apr	12-Apr	4/12/04	<b>Education</b> ; employees; requiring school employees to remain in or search a school when a bomb threat is made; prohibit unless certain training has been provided. <b>(Rep. C. Ward)</b>

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57	4179		Yes	12-Apr	12-Apr	4/12/04	<b>Senior citizens</b> ; health; refund of application fee for individuals not enrolled in the EPIC program and certain additional eligibility criteria for the EPIC program; provide for. <b>(Rep. S. Shackleton)</b>
58	5104		Yes	12-Apr	12-Apr	6/11/04	<b>Crimes</b> ; homicide; penalties for certain vulnerable adult abuse; include as felony murder. <b>(Rep. W. Van Regenmorter)</b>
59	5184		Yes	12-Apr	12-Apr	8/1/04	<b>Human services</b> ; adult foster care; adult foster care facilities; prohibit employment of individuals with certain criminal history and require facilities to conduct criminal history check for new employees. <b>(Rep. G. Woronchak)</b>
60	5344		Yes	12-Apr	12-Apr	4/12/04	<b>Economic development</b> ; enterprise zones; neighborhood enterprise zone expansion to include exemption for certain homes; provide for. <b>(Rep. A. Hardman)</b>
61		189	Yes	12-Apr	12-Apr	4/12/04	<b>Occupations</b> ; social workers; social workers meeting certain requirements; license. <b>(Sen. B. Hammerstrom)</b>
62	5120		Yes	12-Apr	13-Apr	*** #	<b>Crimes</b> ; drunk driving; crime of operating a vehicle with bodily content of certain controlled substances; revise to reflect. <b>(Rep. W. Van Regenmorter)</b>
63		637	Yes	12-Apr	13-Apr	9/1/04 #	<b>Liquor</b> ; drinking age; definition of possession as presence of alcohol in the body under certain circumstances; clarify and modify penalties. <b>(Sen. T. George)</b>

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64		337	Yes	20-Apr	20-Apr	4/20/04 #	<b>Housing</b> ; other; requirement for class "A" multiple dwellings to be equipped with a fire alarm system; provide for. ( <b>Sen. S. Johnson</b> )
65		742	Yes	20-Apr	20-Apr	4/20/04 #	<b>Construction</b> ; code; requirement for the installation of smoke detectors in certain buildings and structures; provide for under certain circumstances. ( <b>Sen. S. Johnson</b> )
66		338	Yes	20-Apr	20-Apr	4/20/04	<b>Economic development</b> ; downtown development authorities; requirement for equipping a historic site with a fire alarm system; provide for. ( <b>Sen. S. Johnson</b> )
67		339	Yes	20-Apr	20-Apr	4/20/04	<b>State</b> ; historic sites; requirement for building, facility, or structure in a proposed historic district to be equipped with a fire alarm system; provide for. ( <b>Sen. M. Bishop</b> )
68		702	Yes	20-Apr	20-Apr	4/20/04	<b>Children</b> ; adoption; residency requirement for adoptive parents; revise. ( <b>Sen. B. Hammerstrom</b> )
69		1020	Yes	20-Apr	20-Apr	4/20/04	<b>Higher education</b> ; financial aid; fiscal year payment of Michigan merit award money; revise. ( <b>Sen. S. Johnson</b> )
70		1017	Yes	20-Apr	20-Apr	4/20/04 #	<b>Traffic control</b> ; other; driver education subsidies; eliminate, and transfer responsibility for certain driver education programs to the department of state. ( <b>Sen. R. Emerson</b> )

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71		1018	Yes	20-Apr	20-Apr	4/20/04 #	<b>Traffic control</b> ; other; driver education subsidies; eliminate and redirect fees to traffic law enforcement safety fund. ( <b>Sen. R. Emerson</b> )
72	4929		Yes	20-Apr	20-Apr	4/20/04	<b>Environmental protection</b> ; water pollution; disclosure procedures for discharges of untreated or partially treated sewage; require for privately owned sewer systems. ( <b>Rep. C. Ward</b> )
73	5087		Yes	20-Apr	20-Apr	4/20/04	<b>Education</b> ; students; students possessing and using epinephrine auto-injector or epinephrine inhaler at school; allow under certain circumstances. ( <b>Rep. M. Shulman</b> )
74		635	Yes	21-Apr	21-Apr	4/21/04	<b>Health facilities</b> ; homes for the aged; waiver of age limitation for residency in a home for the aged; provide for under certain circumstances. ( <b>Sen. B. Hammerstrom</b> )
75		1014	Yes	21-Apr	21-Apr	4/21/04	<b>Environmental protection</b> ; other; agricultural preservation fund; modify administrative cap. ( <b>Sen. R. Emerson</b> )
76		1016	Yes	21-Apr	21-Apr	4/21/04	<b>Education</b> ; teachers; uses of teacher certification fees; expand and provide for transfer from teacher-administrator preparation and certification fund. ( <b>Sen. R. Emerson</b> )
77		1019	Yes	21-Apr	21-Apr	4/21/04	<b>Taxation</b> ; revenue sharing; revenue sharing percentage; revise and provide for withholding of payments in certain circumstances. ( <b>Sen. R. Emerson</b> )

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78		106	Yes	21-Apr	21-Apr	4/21/04	<b>State</b> ; symbol; lotus blossom; designate as state symbol for clean water. ( <b>Sen. B. Hammerstrom</b> )
79	4472		Yes	21-Apr	21-Apr	4/21/04	<b>Property tax</b> ; exemptions; definition of "eligible distressed area"; revise. ( <b>Rep. A. Lipsey</b> )
80	5445		Yes	21-Apr	22-Apr	4/22/04	<b>Single business tax</b> ; credit; references to Michigan economic growth authority act; modify and require certain reports. ( <b>Rep. W. Huizenga</b> )
81		824	Yes	21-Apr	22-Apr	4/22/04 #	<b>Economic development</b> ; Michigan economic growth authority; revisions to the authority board and other general amendments; provide. ( <b>Sen. J. Allen</b> )
82		1013	Yes	22-Apr	22-Apr	4/22/04	<b>State</b> ; escheats; certain unclaimed property by insurance companies; subject to 2-year escheat period and modify publication requirements. ( <b>Sen. M. Schauer</b> )
83		1021	Yes	22-Apr	22-Apr	4/22/04 #	<b>Retirement</b> ; state police; DROP program; implement. ( <b>Sen. C. Brown</b> )
84	5365		Yes	22-Apr	22-Apr	4/22/04	<b>Counties</b> ; employees and officers; provision relating to voting procedures for members of the board of supervisors of Saginaw county; repeal. ( <b>Rep. J. Howell</b> )
85	5641		Yes	22-Apr	22-Apr	4/22/04	<b>Counties</b> ; boards and commissions; procedure for relocation of county seat; revise. ( <b>Rep. D. Palsrok</b> )

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86		1032	Yes	22-Apr	22-Apr	4/22/04	<b>Higher education</b> ; generally; certain investment information provided to state institutions of higher education; exempt from disclosure. ( <b>Sen. V. Garcia</b> )
87		990	Yes	22-Apr	22-Apr	4/22/04	<b>Civil procedure</b> ; statute of limitations; provision regarding tolling of statute of limitations; revise to include that a copy of the summons and complaint be served upon the defendant within the time set forth in the supreme court rules. ( <b>Sen. M. Bishop</b> )
88		612	Yes	22-Apr	22-Apr	4/22/04	<b>Public utilities</b> ; consumer services; waiver from requirements of the code of conduct for utility appliance service programs; provide for. ( <b>Sen. L. Toy</b> )
89		1015	Yes	22-Apr	22-Apr	4/22/04	<b>Law enforcement</b> ; communications; 9-1-1 funding for state police towers; provide for. ( <b>Sen. D. Cherry</b> )
90		560	Yes	22-Apr	22-Apr	4/22/04	<b>Environmental protection</b> ; groundwater contamination; groundwater discharge permit fees; enact. ( <b>Sen. B. Leland</b> )
91		252	Yes	22-Apr	22-Apr	4/22/04	<b>Environmental protection</b> ; water pollution; storm water discharge fees and other surface water discharge fees; provide for. ( <b>Sen. L. Brater</b> )
92		432	Yes	26-Apr	26-Apr	4/26/04	<b>Elections</b> ; other; federal provisional ballot requirement and other federal requirements; include in Michigan election law. ( <b>Sen. B. Hammerstrom</b> )

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93	5466		Yes	7-May	7-May	5/7/04	<b>Probate</b> ; powers of attorney; length of delegation of parental powers by individuals serving in armed forces; extend. <b>(Rep. J. Emmons)</b>
94		109	Yes	7-May	7-May	5/7/04	<b>State agencies (existing)</b> ; other; department of labor and economic growth; codify transfer of office of Spanish-speaking affairs. <b>(Sen. V. Garcia)</b>
95		759	Yes	7-May	7-May	5/7/04	<b>Watercraft</b> ; safety; department of natural resources educational programs; include information on fueling techniques, problems associated with marine fuel spills, and how and when to report a marine fuel spill. <b>(Sen. B. Patterson)</b>
96		350	Yes	7-May	7-May	5/7/04	<b>Elections</b> ; election officials; voting equipment and voter information displays; require appropriate election officials to furnish. <b>(Sen. C. Brown)</b>
97		206	Yes	7-May	7-May	5/7/04	<b>Occupations</b> ; individual licensing and regulation; audiologists; establish licensing. <b>(Sen. S. Johnson)</b>
98	4172		Yes	13-May	13-May	5/13/04	<b>Health</b> ; testing; defendant charged with certain crimes to pay actual and reasonable costs of court ordered testing; include hepatitis C and allow court to order upon conviction. <b>(Rep. T. Meyer)</b>
99	5427		Yes	13-May	13-May	5/13/04	<b>Weapons</b> ; licensing; licensing and inspection requirements for certain antique firearms; clarify. <b>(Rep. D. Acciavatti)</b>

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100	5428		Yes	13-May	13-May	5/13/04	<b>Weapons</b> ; other; inspection requirements for certain antique firearms; clarify. (Rep. F. Amos)
101	5429		Yes	13-May	13-May	5/13/04	<b>Weapons</b> ; licensing; licensing requirements for certain antique firearms; clarify. (Rep. M. Milosch)
102	5648		Yes	13-May	13-May	5/13/04	<b>Juveniles</b> ; criminal procedure; payment of minimum state cost by juveniles; revise procedure. (Rep. J. Howell)
103	4937		Yes	20-May	20-May	5/20/04	<b>Occupations</b> ; inspectors; representation of antique steam boiler operators; require membership on board of boiler rules and provide for inspections. (Rep. B. Caswell)
104	5026		Yes	20-May	20-May	7/1/04	<b>Law enforcement</b> ; reports; prohibition against making false crime reports to certain individuals; revise. (Rep. G. Woronchak)
105	5182		Yes	20-May	20-May	9/1/04 #	<b>Civil procedure</b> ; evictions; procedure for eviction of tenants of property where controlled substances are manufactured, possessed, or delivered; revise. (Rep. J. Kooiman)
106	5197		Yes	20-May	20-May	9/1/04 #	<b>Housing</b> ; landlord and tenants; procedure for eviction of tenants of property where controlled substances are manufactured, possessed, or delivered; revise. (Rep. J. Kooiman)
107		307	Yes	20-May	20-May	5/20/04	<b>Education</b> ; other; parent involvement plan; require school districts and public school academies to create. (Sen. N. Cassis)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
108	5545		Yes	20-May	20-May	5/20/04	<b>Property tax</b> ; payment and collection; reimbursement for collection of state education tax; revise. <b>(Rep. J. Moolenaar)</b>
109	5093		Yes	20-May	20-May	5/20/04	<b>Retirement</b> ; state employees; reduction of duty disability retirement benefits; prohibit under certain circumstances. <b>(Rep. P. Condino)</b>
110		778	Yes	20-May	20-May	5/20/04	<b>Public employees and officers</b> ; public officer or employee of community mental health services program; allow to serve as public officer or employee of another legal or administrative entity. <b>(Sen. B. Hammerstrom)</b>
111		783	Yes	20-May	20-May	8/18/04	<b>Crimes</b> ; other; antihazing act; establish. <b>(Sen. M. McManus)</b>
112		784	Yes	20-May	20-May	8/18/04 #	<b>Criminal procedure</b> ; sentencing guidelines; sentencing guidelines for hazing crimes; enact. <b>(Sen. N. Cassis)</b>
113	5281		Yes	21-May	21-May	5/21/04	<b>Insurance</b> ; insurers; requirement for certain bond surety companies to maintain unimpaired capital and surplus; provide for. <b>(Rep. M. Mortimer)</b>
114		653	Yes	21-May	21-May	5/21/04	<b>Environmental protection</b> ; funding; environmental fees; extend sunset on the baseline environmental assessment fee and limit collection of groundwater discharge permit fees. <b>(Sen. B. Leland)</b>
115		1026	Yes	21-May	21-May	5/21/04	<b>Holidays</b> ; "Michigan Manufacturing Day"; establish. <b>(Sen. M. McManus)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
116	4434		Yes	26-May	26-May	5/26/04	<b>Criminal procedure</b> ; probation; obtaining high school education or GED equivalency as a condition of probation; allow court to order. <b>(Rep. V. Smith)</b>
117	4244		Yes	26-May	26-May	5/26/04	<b>Retirement</b> ; public school employees; definition of "dependent"; revise. <b>(Rep. J. Minore)</b>
118	5241		Yes	27-May	27-May	5/27/04	<b>Taxation</b> ; hotel-motel tax; population requirements for the collection of and the rate of excise taxes; revise. <b>(Rep. J. Koetje)</b>
119	4272		Yes	27-May	27-May	5/27/04	<b>Health facilities</b> ; patients; governor's commission on patient safety; create. <b>(Rep. S. Ehardt)</b>
120		991	Yes	27-May	27-May	5/27/04	<b>Health facilities</b> ; hospitals; hospital authority; revise certain document compliance criteria. <b>(Sen. J. Allen)</b>
121		839	Yes	27-May	27-May	5/27/04	<b>Property</b> ; conveyances; certain state owned property in Berrien county; allow for conveyance. <b>(Sen. R. Jelinek)</b>
122		804	Yes	28-May	28-May	5/28/04	<b>Local government</b> ; bonds; improvements on real estate property; require certain deposits. <b>(Sen. P. Birkholz)</b>
123		1023	Yes	28-May	28-May	5/28/04 #	<b>Natural resources</b> ; forests; forest pilot project areas; provide for. <b>(Sen. M. Prusi)</b>
124		1024	Yes	28-May	28-May	5/28/04 #	<b>Natural resources</b> ; forests; forest finance authority; change membership of board and authorize use of the forest development fund for certification of sustainable forestry standards in the state forest. <b>(Sen. M. McManus)</b>

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125	5554		Yes	28-May	28-May	5/28/04 #	<b>Natural resources</b> ; forests; sustainable forestry on state forestlands; provide for. <b>(Rep. T. Casperson)</b>
126	5331		Yes	28-May	28-May	5/28/04	<b>Single business tax</b> ; credit; start-up business; credit for certain tax years under certain circumstances. <b>(Rep. L. Wenke)</b>
127	5666		Yes	3-Jun	3-Jun	6/3/04	<b>Education</b> ; attendance; counting additional hours as pupil instruction due to certain structural damage to a school building; allow. <b>(Rep. H. Walker)</b>
128	5105		Yes	3-Jun	3-Jun	7/1/04	<b>Crimes</b> ; robbery; general revisions to certain robbery statutes; provide for. <b>(Rep. W. Van Regenmorter)</b>
129		221	Yes	3-Jun	3-Jun	6/3/04 #	<b>Weapons</b> ; concealed; carrying a pistol in area frequented by game without hunting license; allow if individual has, or is exempt from having, a concealed weapon permit. <b>(Sen. V. Garcia)</b>
130	4867		Yes	3-Jun	3-Jun	6/3/04 #	<b>Weapons</b> ; concealed; promulgation of rules prohibiting the carrying of concealed pistols on certain state land; prohibit by certain state agencies under certain circumstances. <b>(Rep. J. Koetje)</b>
131		979	Yes	3-Jun	3-Jun	6/3/04	<b>Transportation</b> ; school vehicles; annual physical examination required for drivers; add certified nurse practitioner as individual authorized to conduct and certify. <b>(Sen. B. Patterson)</b>

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132		982	Yes	3-Jun	3-Jun	6/3/04	<b>State agencies (existing);</b> civil service; required physical examination for all applicants; allow physician's assistant or certified nurse practitioner to perform. <b>(Sen. M. Bishop)</b>
133		985	Yes	3-Jun	3-Jun	6/3/04	<b>State agencies (existing);</b> civil service; required physical examination for all applicants; allow physician's assistant or certified nurse practitioner to perform. <b>(Sen. W. Kuipers)</b>
134	5500		Yes	5-Jun	6/7	6/7/04	<b>Liquor;</b> hours; selling of alcohol before 12 noon on Sunday; require to extend over 2 time zones. <b>(Rep. T. Casperson)</b>
135			No		6/9	**	<b>Initiated Law</b>
136	5381		Yes	10-Jun	6/10	9/1/04	<b>Liens;</b> other; a judgment lien; provide for. <b>(Rep. C. LaSata)</b>
137	5671		Yes	10-Jun	6/10	6/10/04	<b>Cities;</b> annexation; notification to certain property owners of scheduled public hearings for annexation; require. <b>(Rep. J. Hune)</b>
138		1074	Yes	15-Jun	6/15	6/15/04	<b>Highways;</b> name; memorial highway act; amend section naming US-131. <b>(Sen. T. George)</b>
139		241	Yes	15-Jun	6/15	6/15/04 #	<b>Highways;</b> name; underground railroad memorial highway; create. <b>(Sen. T. George)</b>
140	5491		Yes	15-Jun	6/15	6/15/04 #	<b>Highways;</b> name; underground railroad memorial highway; create. <b>(Rep. L. Wenke)</b>

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141		559	Yes	15-Jun	6/15	6/15/04	<b>Liquor</b> ; licenses; on-premises liquor license for certain conference centers; expand to include certain centers at northwestern Michigan college. <b>(Sen. J. Allen)</b>
142	5586		Yes	15-Jun	6/15	6/15/04 #	<b>Environmental protection</b> ; water pollution; notification requirements for release of polluting material; revise and change date for inflation adjustment to commercial forest specific tax. <b>(Rep. D. Acciavatti)</b>
143		977	Yes	15-Jun	6/15	6/15/04 #	<b>Environmental protection</b> ; water pollution; failure to report release of polluting material to 9-1-1 and local health department; provide penalties. <b>(Sen. J. Gilbert)</b>
144	5134		Yes	15-Jun	6/15	6/15/04	<b>Health</b> ; occupations; use of a laser for dermatological purposes; require physician supervision. <b>(Rep. E. Gaffney)</b>
145		662	Yes	15-Jun	6/15	6/15/04	<b>Higher education</b> ; financial aid; payments to approved independent nonprofit institutions of higher education; allow payment for theology, divinity, or religious programs and degrees in certain institutions. <b>(Sen. J. Allen)</b>
146		1179	Yes	15-Jun	6/15	6/15/04	<b>Highways</b> ; name; certain bridge by US-31 in Grand Haven; designate as the "Memorial Bridge". <b>(Sen. W. Kuipers)</b>
147		1160	Yes	15-Jun	6/15	6/15/04	<b>Highways</b> ; name; renaming of a portion of US-127; designate as the "Kevin Sherwood Memorial Highway". <b>(Sen. M. McManus)</b>

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148		1073	Yes	15-Jun	6/15	6/15/04	<b>Education</b> ; employees; requirement for school administrator continuing education; clarify. <b>(Sen. W. Kuipers)</b>
149		913	Yes	15-Jun	6/15	9/1/04	<b>State</b> ; identification cards; reproducing, altering, counterfeiting, forging, or duplicating Michigan personal identification card; increase penalties. <b>(Sen. M. McManus)</b>
150		912	Yes	15-Jun	6/15	9/1/04 #	<b>Criminal procedure</b> ; sentencing guidelines; sentencing guidelines for crime of reproducing, altering, counterfeiting, forging, or duplicating Michigan personal identification card; enact. <b>(Sen. A. Sanborn)</b>
151		981	Yes	15-Jun	6/15	6/15/04	<b>Traffic control</b> ; parking; medical certification required to obtain a handicap parking sticker, certificate, placard, plate, or tab; add certified nurse practitioner as individual authorized to complete and limit the display of the disabled person's driver's license number or state identification number on the windshield placard. <b>(Sen. S. Thomas)</b>
152		987	Yes	15-Jun	6/15	6/15/04	<b>Occupations</b> ; other; medical certification required for licensure as a driver's training instructor; add a licensed physician's assistant and certified nurse practitioner as individuals authorized to conduct and certify the physical examination. <b>(Sen. B. Patterson)</b>

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153		724	Yes	15-Jun	6/15	6/15/04	<b>Health</b> ; death; county medical examiner's investigative duties regarding death of an individual while under hospice care; clarify. <b>(Sen. T. George)</b>
154		1009	Yes	15-Jun	6/15	9/1/04	<b>Crimes</b> ; definitions; definition of "false pretense"; clarify. <b>(Sen. A. Cropsey)</b>
155		918	Yes	15-Jun	6/16	9/1/04 #	<b>Crimes</b> ; electronic surveillance; recording certain visual images without consent; prohibit and provide penalties. <b>(Sen. A. Sanborn)</b>
156	5692		Yes	15-Jun	6/16	9/1/04 #	<b>Crimes</b> ; electronic surveillance; secretly observing, recording, or capturing certain visual images; prohibit and provide penalties. <b>(Rep. F. Amos)</b>
157	5693		Yes	15-Jun	6/16	6/16/04 #	<b>Criminal procedure</b> ; sentencing guidelines; guidelines for certain crimes involving electronic surveillance; enact. <b>(Rep. S. Caul)</b>
158	4344		Yes	17-Jun	6/17	6/17/04	<b>Economic development</b> ; downtown development authorities; multiple districts; allow. <b>(Rep. L. Wojno)</b>
159	5307		Yes	18-Jun	6/18	9/1/04	<b>Probate</b> ; trusts; new uniform principal and income act; enact. <b>(Rep. W. Van Regenmorter)</b>
160	5029		Yes	18-Jun	6/18	6/18/04	<b>Natural resources</b> ; hunting; mourning doves; list as game and authorize natural resources commission to declare first open season for game. <b>(Rep. S. Tabor)</b>
161	4983		Yes	18-Jun	6/21	10/1/04	<b>Occupations</b> ; service occupations; listing of certain persons acting as immigration clerical assistants; provide for and require bonding. <b>(Rep. S. Tobocman)</b>

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162	4984		Yes	18-Jun	6/21	10/1/04 #	<b>Criminal procedure</b> ; sentencing guidelines; sentencing guidelines for certain violations of the Michigan immigration clerical assistant act; enact. <b>(Rep. W. Huizenga)</b>
163	5008		Yes	23-Jun	6/23	6/23/04	<b>Vehicles</b> ; registration; registration of motorcycle license plate to expire on individual's birthday; require. <b>(Rep. W. Huizenga)</b>
164	5632		Yes	24-Jun	6/24	6/24/04	<b>Taxation</b> ; tobacco; tobacco products tax; increase and earmark funds. <b>(Rep. L. Julian)</b>
165		943	Yes	24-Jun	6/24	6/24/04	<b>Education</b> ; curricula; requirements for instruction in sex education; revise. <b>(Sen. W. Kuipers)</b>
166	5478		Yes	24-Jun	6/24	6/24/04 #	<b>School aid</b> ; penalties; penalties related to instruction in sex education; revise and provide for complaint process. <b>(Rep. J. Stahl)</b>
167		151	Yes	24-Jun	6/24	6/24/04	<b>Criminal procedure</b> ; bail; surety bonds for proportion of full bail amount; allow. <b>(Sen. H. Clarke)</b>
168	5273		Yes	24-Jun	6/24	6/24/04	<b>Transportation</b> ; carriers; penalties for improper transportation of hazardous materials; revise. <b>(Rep. T. Casperson)</b>
169	5730		Yes	24-Jun	6/24	6/24/04 #	<b>Liquor</b> ; licenses; issuance of license to a local unit of government in which an international sporting event is to be hosted; allow. <b>(Rep. S. Taub)</b>
170	5731		Yes	24-Jun	6/24	6/24/04 #	<b>Liquor</b> ; licenses; sale of alcohol during certain national sporting events; allow. <b>(Rep. B. McConico)</b>

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171		296	Yes	24-Jun	6/24	6/24/04	<b>Insurance</b> ; health; direct reimbursement to provider of medical transportation services; provide for. ( <b>Sen. J. Gilbert</b> )
172	5502		Yes	28-Jun	6/28	9/1/04 #	<b>Use tax</b> ; collections; implementation of a streamlined sales tax; provide for. ( <b>Rep. L. Wenke</b> )
173	5503		Yes	28-Jun	6/28	9/1/04 #	<b>Sales tax</b> ; collections; implementation of a streamlined sales tax; provide for. ( <b>Rep. D. Byrum</b> )
174	5504		Yes	28-Jun	6/28	7/1/04 #	<b>Sales tax</b> ; collections; implementation of a streamlined sales tax agreement; provide for. ( <b>Rep. P. Condino</b> )
175	5505		Yes	28-Jun	6/28	9/1/04 #	<b>Sales tax</b> ; collections; streamlined sales tax equalization act; create. ( <b>Rep. J. Koetje</b> )
176	5681		Yes	1-Jul	7/1	7/1/04	<b>Recreation</b> ; state parks; Mackinac Island state park; provide sanctions for operating a vehicle without a permit and for destruction of vegetation. ( <b>Rep. S. Shackleton</b> )
177	5494		Yes	1-Jul	7/1	7/1/04	<b>State</b> ; historic sites; law enforcement memorial monument; create. ( <b>Rep. L. Julian</b> )
178	4476		Yes	1-Jul	7/1	7/1/04	<b>Human services</b> ; long-term care; Michigan lifespan respite services program; create. ( <b>Rep. B. Vander Veen</b> )
179	5225		Yes	1-Jul	7/1	7/1/04	<b>Health</b> ; death; rules and regulations for medical examiners when conducting an autopsy to determine the cause of an infant death; require department of community health to promulgate. ( <b>Rep. P. Condino</b> )

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180		625	Yes	1-Jul	7/1	7/1/04	<b>Higher education</b> ; tuition; part-time independent student grants; revise to allow students in certain theology or divinity programs to receive grant money. ( <b>Sen. N. Cassis</b> )
181		626	Yes	1-Jul	7/1	7/1/04	<b>Higher education</b> ; tuition; state competitive scholarships; revise to allow students in theology, divinity, or religious programs to receive scholarship money. ( <b>Sen. G. Van Woerkom</b> )
182		627	Yes	1-Jul	7/1	7/1/04	<b>Higher education</b> ; tuition; legislative merit award program; revise to allow students in theology, divinity, or religious programs in certain institutions to receive scholarship money. ( <b>Sen. J. Allen</b> )
183		628	Yes	1-Jul	7/1	7/1/04	<b>Higher education</b> ; tuition; Michigan educational opportunity grant program; revise to allow students in theology, divinity, or religious programs in certain institutions to receive grant money. ( <b>Sen. I. Clark-Coleman</b> )
184		661	Yes	1-Jul	7/1	7/1/04	<b>Higher education</b> ; tuition; tuition differential grants; revise to allow students in theology, divinity, or religious programs in certain institutions to receive tuition grant. ( <b>Sen. J. Allen</b> )
185		1194	Yes	1-Jul	7/1	7/1/04	<b>Appropriations</b> ; supplemental; increase in amount of general fund appropriation for state school aid; provide for fiscal year 2003-2004. ( <b>Sen. S. Johnson</b> )

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186	5859		Yes	1-Jul	7/1	7/1/04	<b>Liens</b> ; mortgages; provisions relating to foreclosure by advertisement of mortgages that have been assigned; revise. <b>(Rep. A. Lipsey)</b>
187		988	Yes	8-Jul	7/8	7/8/04	<b>Occupations</b> ; other; physical examinations required for boxers, referees, and judges before participating in a boxing contest; allow physician, certified nurse practitioner, or physician's assistant to perform. <b>(Sen. B. Patterson)</b>
188		1191	Yes	9-Jul	7/8	7/8/04 #	<b>Occupations</b> ; licensing fees; certified nurse practitioner and physician's assistant participation in a boxing event; provide for. <b>(Sen. B. Patterson)</b>
189	4062		Yes	10-Jul	7/8	7/8/04	<b>Health facilities</b> ; nursing homes; 24-hour toll-free telephone consumer complaint line; provide for. <b>(Rep. L. Wojno)</b>
190	4127		Yes	11-Jul	7/8	7/8/04	<b>Insurance</b> ; no-fault; use of particular auto repair facility; disclose agreements and inform insureds of certain rights. <b>(Rep. K. Daniels)</b>
191	4232		Yes	12-Jul	7/8	7/8/04 #	<b>Liquor</b> ; licenses; transfer within a county of on-premises escrowed liquor license; eliminate the population provision within a certain time period. <b>(Rep. J. Koetje)</b>
192	4930		Yes	13-Jul	7/8	7/8/04 #	<b>Liquor</b> ; licenses; issuance of a tavern license for golf courses owned by local governmental units under certain circumstances; provide for. <b>(Rep. J. Koetje)</b>
193	4769		Yes	14-Jul	7/8	7/8/04	<b>Children</b> ; support; assignment of support rights and foster care payments; bring into compliance with federal law. <b>(Rep. V. Smith)</b>

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194	5492		Yes	15-Jul	7/8	7/8/04	<b>Liquor</b> ; licenses; certain university-owned facilities; allow to obtain class B hotel type liquor license. <b>(Rep. L. Wenke)</b>
195	5589		Yes	16-Jul	7/8	7/8/04	<b>Children</b> ; services; requirement for child protective services workers to provide certain identifying information during a child protective services investigation; establish. <b>(Rep. F. Sheen)</b>
196		1240	Yes	17-Jul	7/8	7/8/04	<b>Economic development</b> ; downtown development authorities; uses for levied funds; expand to include wireless infrastructure and marketing initiatives. <b>(Sen. T. George)</b>
197	5807		Yes	12-Jul	7/12	7/12/04 #	<b>Public utilities</b> ; electric utilities; independent transmission companies; establish. <b>(Rep. B. McConico)</b>
198	5808		Yes	12-Jul	7/12	7/12/04 #	<b>Public utilities</b> ; electric utilities; electric transmission line certificate act; create. <b>(Rep. K. Bradstreet)</b>
199	4710		Yes	12-Jul	7/12	7/12/04	<b>Income tax</b> ; collections; income tax filing extension for active duty military service personnel serving in a combat zone; provide for and exempt from penalties and interest. <b>(Rep. B. Caswell)</b>
200	5232		Yes	12-Jul	7/12	7/12/04	<b>State agencies (existing)</b> ; community health; extension of sunset for temporary licensure of certain registered nurses, study and licensure of certain ambulance operations and devices; require. <b>(Rep. J. Stakoe)</b>

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201	5094		Yes	7/13	7/13	7/13/04	<b>Traffic control</b> ; pedestrians; procedures for establishing crosswalks near schools; revise. <b>(Rep. M. Murphy)</b>
202	5243		Yes	13-Jul	7/13	7/13/04	<b>Economic development</b> ; renaissance zones; tool and die recovery zone; modify. <b>(Rep. D. Palsrok)</b>
203	4770		Yes	14-Jul	7/14	10/1/04 #	<b>Children</b> ; support; child support bench warrant enforcement fund; create. <b>(Rep. M. Milosch)</b>
204	4768		Yes	14-Jul	7/14	10/1/04	<b>Children</b> ; support; responsibility for pregnancy and birth expenses under the paternity act; apportion between the parents and provide for certain exceptions. <b>(Rep. D. Hart)</b>
205	4771		Yes	14-Jul	7/14	10/1/04	<b>Family law</b> ; spousal support; revision of certain fees for actions pertaining to the custody or parenting time of minor children and funding for child support bench warrant enforcement fund; provide for. <b>(Rep. S. Tabor)</b>
206	4772		Yes	14-Jul	7/14	2/28/05	<b>Family law</b> ; friend of the court; administrative adjustment in the income withholding order to account for arrearages; allow and provide enforcement procedures for noncompliance by employers and payers. <b>(Rep. B. Vander Veen)</b>
207	4773		Yes	14-Jul	7/14	6/30/05	<b>Children</b> ; support; circumstances and time period requiring a review of child support; revise. <b>(Rep. P. Condino)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
208	4774		Yes	14-Jul	7/14	***	<b>Children</b> ; support; procedure for assessing of and for discharge of surcharge costs; provide for. (Rep. J. Howell)
209	4775		Yes	14-Jul	7/14	10/1/04	<b>Children</b> ; support; retroactive support from date of paternity complaint filed; establish. (Rep. J. Koetje)
210	4776		Yes	14-Jul	7/14	10/1/04	<b>Family law</b> ; friend of the court; definition and functions of de novo hearings; include, revise membership requirement on county citizen friend of the court advisory committees, and provide guidelines for deviation from the child support formula. (Rep. J. Howell)
211	4792		Yes	14-Jul	7/14	2/28/05	<b>Children</b> ; support; arrearage payment plan; establish and provide certain penalties. (Rep. J. Garfield)
212	5148		Yes	14-Jul	7/14	*** #	<b>Commercial code</b> ; secured transactions; filing of financial statement; require notice of filing to debtor by secretary of state and prescribe penalties for false or fraudulent filing. (Rep. S. Shackleton)
213	5174		Yes	14-Jul	7/14	10/12/04	<b>Crimes</b> ; other; penalties for certain adulterations of drugs and medicine; increase. (Rep. D. Robertson)
214	5175		Yes	14-Jul	7/14	10/12/04	<b>Health</b> ; pharmaceuticals; penalty for adulterating, misbranding, or substituting a drug or device or selling an adulterated or misbranded drug; enhance in certain circumstances. (Rep. M. Nofs)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
215	5176		Yes	14-Jul	7/14	10/12/04 #	<b>Criminal procedure</b> ; sentencing guidelines; crime of adulterating, misbranding, or substituting a drug or device; provide for. (Rep. D. Farhat)
216	5177		Yes	14-Jul	7/14	10/12/04 #	<b>Criminal procedure</b> ; sentencing guidelines; increased penalties for certain adulterations of drugs and medicine; provide. (Rep. S. Ehardt)
217	5930		Yes	14-Jul	7/14	7/14/04	<b>Insurance</b> ; insurers; insurers rehabilitation and liquidation; permit exercise of a contractual right to terminate, liquidate, or close out netting agreement or financial contract without automatic stay. (Rep. D. Robertson)
218	5178		Yes	14-Jul	7/14	10/12/04 #	<b>Corrections</b> ; parole; provision relating to nonparolable life sentences; expand to include certain convictions. (Rep. T. Casperson)
219	5647		Yes	21-Jul	7/21	1/1/05 #	<b>Criminal procedure</b> ; probation; conditions of probation; include participation in drug treatment court. (Rep. J. Howell)
220	5674		Yes	21-Jul	7/21	1/1/05 #	<b>Criminal procedure</b> ; sentencing; sentencing procedures; include references to drug treatment courts. (Rep. D. Acciavatti)
221	5716		Yes	21-Jul	7/21	1/1/05 #	<b>Juveniles</b> ; criminal procedure; commitment of juvenile to drug treatment court; allow. (Rep. A. Meisner)
222	5932		Yes	21-Jul	7/21	1/1/05 #	<b>Courts</b> ; other; reporting of certain dispositions involving drug treatment court; revise. (Rep. A. Lipsey)

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223	5928		Yes	21-Jul	7/21	1/1/05 #	<b>Courts</b> ; other; referral to drug treatment court for certain persons eligible for deferred sentence and dismissal of charge; provide for. <b>(Rep. P. Condino)</b>
224		998	Yes	21-Jul	7/21	1/1/05	<b>Courts</b> ; other; drug treatment courts; establish. <b>(Sen. A. Cropsey)</b>
225		999	Yes	21-Jul	7/21	1/1/05 #	<b>Controlled substances</b> ; penalties; eligibility for probation and dismissal of charges; coordinate with drug treatment courts. <b>(Sen. A. Sanborn)</b>
226		1000	Yes	21-Jul	7/21	1/1/05 #	<b>Criminal procedure</b> ; youthful trainees; eligibility for youthful trainee program; coordinate with drug treatment courts. <b>(Sen. B. Patterson)</b>
227		599	Yes	21-Jul	7/21	7/21/04	<b>Education</b> ; school choice; children of school employees to attend school and be counted in district in which parents are employed without requiring consent of district of residence; allow. <b>(Sen. R. Basham)</b>
228		1135	Yes	21-Jul	7/21	7/21/04 #	<b>Environmental protection</b> ; other; laboratory data quality assurance advisory council; create. <b>(Sen. V. Garcia)</b>
229	5742		Yes	21-Jul	7/21	7/21/04 #	<b>Environmental protection</b> ; other; environmental laboratory quality recognition program; establish and make participation a condition for state contracts. <b>(Rep. S. Caul)</b>
230	5743		Yes	21-Jul	7/21	7/21/04 #	<b>Environmental protection</b> ; other; environmental laboratory quality recognition program; require audits of. <b>(Rep. L. Wenke)</b>

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231	5969		Yes	21-Jul	7/21	7/21/04	<b>Transportation</b> ; school vehicles; signal lights; revise number and color and require compliance with federal and state safety standards. (Rep. J. Voorhees)
232	5376		Yes	21-Jul	7/21	7/21/04	<b>Education</b> ; financing; requirement for posting bid information; revise. (Rep. B. Caswell)
233	4947		Yes	21-Jul	7/21	7/21/04	<b>Education</b> ; board members; public disclosure of school boards' voting preferences for intermediate school board members; require and require vote to be at open meeting. (Rep. J. Gleason)
234	4338		Yes	21-Jul	7/21	7/21/04 #	<b>Education</b> ; intermediate school districts; provisions concerning qualifications, recall, and removal of intermediate school board members; revise and clarify, and revise procedure for constituent district review of intermediate school district budget. (Rep. R. Johnson)
235	5021		Yes	21-Jul	7/21	7/21/04	<b>Natural resources</b> ; wildlife; wildlife violator compact; authorize governor to enter. (Rep. H. Walker)
236	5931		Yes	21-Jul	7/21	7/1/04	<b>Insurance</b> ; other; use of NAIC-adopted mortality tables; provide for. (Rep. D. Robertson)
237		1167	Yes	21-Jul	7/21	10/16/04 #	<b>Criminal procedure</b> ; sex offender registration; registration fee for registrant on the public sex offenders registry; assess. (Sen. B. Hammerstrom)
238	5195		Yes	21-Jul	7/21	5/1/05	<b>Criminal procedure</b> ; sex offender registration; photographs of sex offenders to be placed on public sex offenders registry; require. (Rep. M. Milosch)

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239	5240		Yes	21-Jul	7/21	10/1/04 #	<b>Criminal procedure</b> ; sex offender registration; registration requirements; eliminate for certain individuals. (Rep. L. Julian)
240	4920		Yes	21-Jul	7/21	10/1/04 #	<b>Criminal procedure</b> ; sex offender registration; sex offender registration requirements for certain youthful offenders; revise. (Rep. L. Julian)
241		1025	Yes	21-Jul	7/21	7/21/04 #	<b>Communications</b> ; computers; child protection registry to regulate electronic mail advertisements; provide for. (Sen. M. Bishop)
242	5979		Yes	21-Jul	7/21	7/21/04 #	<b>Communications</b> ; computers; violation of the child protection registry act; include under the fraudulent access to computers act. (Rep. D. Palsrok)
243	5598		Yes	22-Jul	7/23	7/23/04	<b>Employment security</b> ; benefits; eligibility for unemployment benefits for federal Americorps program individuals; prohibit under certain circumstances. (Rep. B. Caswell)
244	5824		Yes	22-Jul	7/23	7/23/04	<b>Property tax</b> ; exemptions; certain personal property located in a designated innovations center in a smart park; provide exemption. (Rep. L. Wenke)
245	5823		Yes	22-Jul	7/23	7/23/04	<b>Property tax</b> ; exemptions; real property designated as innovations center in a smart park; provide exemption. (Rep. L. Wenke)

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246	4730		Yes	22-Jul	7/23	10/1/04 #	<b>Environmental protection</b> ; water pollution; use of pesticides for controlling aquatic nuisances; revise regulation of. (Rep. J. Stakoe)
247	4729		Yes	22-Jul	7/23	10/1/04 #	<b>Environmental protection</b> ; water pollution; use of pesticide for controlling aquatic nuisances; provide sanctions for violations. (Rep. J. Gleason)
248		832	Yes	22-Jul	7/23	7/23/04	<b>Health</b> ; pharmaceuticals; exemption of certain prescription drugs from the department of community health medicaid prior authorization process; provide for. (Sen. B. Hammerstrom)
249	5665		No	22-Jul	7/23	**	<b>State</b> ; purchasing; purchase of paper products; give preference to products that derive from sustainably managed forests or procurement systems. (Rep. K. Bradstreet)
250		831	Yes	22-Jul	7/23	7/23/04	<b>Health</b> ; pharmaceuticals; pharmaceutical best practices initiative; provide for in the public health code. (Sen. T. George)
251	6026		Yes	22-Jul	7/23	7/23/04	<b>Economic development</b> ; obsolete property; start-up businesses; exempt for a certain period of time. (Rep. S. Hummel)
252	6025		Yes	22-Jul	7/23	7/23/04	<b>Property tax</b> ; exemptions; start-up businesses; exempt from taxes for 5 years. (Rep. M. Milosch)
253	4013		Yes	23-Jul	7/23	10/1/04	<b>Children</b> ; paternity; equity in birthing expenses under the paternity act; require with certain exceptions. (Rep. G. Newell)

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254	5698		Yes	23-Jul	7/23	7/23/04	<b>Weapons</b> ; licensing; uniform language on certificate of completion; provide for and limit. (Rep. S. Rocca)
255	4260		Yes	22-Jul	7/23	9/1/04	<b>Crimes</b> ; embezzlement; vulnerable adult fraud; clarify. (Rep. W. Van Regenmorter)
256	5482		Yes	22-Jul	7/23	7/23/04	<b>Elections</b> ; election officials; appointment of a local receiving board; allow. (Rep. C. Ward)
257	5994		Yes	22-Jul	7/23	7/23/04	<b>Elections</b> ; school; recall of school board members; provide for procedure. (Rep. R. Johnson)
258		1116	Yes	22-Jul	7/23	7/23/04	<b>Single business tax</b> ; deductions; income from certain federal and state research programs and grants; provide for. (Sen. G. Van Woerkom)
259		1216	Yes	22-Jul	7/23	7/23/04	<b>Mental health</b> ; code; process for issuance of certain permits and licenses; clarify and expand to include discount and refund language. (Sen. T. George)
260		1222	Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; private detectives; process for issuance of certain licenses; clarify time periods for issuance and expand to include discount and refund language. (Sen. A. Sanborn)
261		1223	Yes	22-Jul	7/23	7/23/04	<b>Construction</b> ; asbestos; process for issuance of licenses of asbestos abatement contractors; clarify time periods for issuance and expand to include discount and refund language. (Sen. V. Bernero)

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262		1224	Yes	22-Jul	7/23	7/23/04	<b>Construction</b> ; asbestos; process for issuance of certain licenses regarding asbestos accreditation; clarify time periods for issuance and expand to include discount and refund language. ( <b>Sen. J. Gilbert</b> )
263		1230	Yes	22-Jul	7/23	7/23/04 #	<b>Occupations</b> ; licensing fees; certain registration and license fees; clarify circumstances for discount and refund. ( <b>Sen. L. Toy</b> )
264		1231	Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; licensing fees; process for issuance of certain registrations and licenses; clarify time periods for issuance and expand to include discount and refund language. ( <b>Sen. L. Toy</b> )
265		1234	Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; construction; process for issuance of certain permits and licenses regarding boilers; clarify time periods for issuance and expand to include discount and refund language. ( <b>Sen. B. Patterson</b> )
266	5878		Yes	22-Jul	7/23	7/23/04	<b>Liquor</b> ; other; process for issuance of certain liquor licenses; clarify time periods for issuance and expand to include discount and refund language. ( <b>Rep. E. Gaffney</b> )
267	5879		Yes	22-Jul	7/23	7/23/04	<b>Food</b> ; other; process for issuance of certain licenses; clarify time periods for issuance and expand to include discount and refund language. ( <b>Rep. C. Bisbee</b> )

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268	5889		Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; plumbers; process for issuance of certain licenses; clarify time periods for issuance and expand to include discount and refund language. (Rep. J. Brandenburg)
269	5890		Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; construction; process for issuance of certain permits and licenses for elevator contractors; clarify time periods for issuance and expand to include discount and refund language. (Rep. F. Amos)
270	5893		Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; security guards; process for issuance of certain licenses; clarify time periods for issuance and expand to include discount and refund language. (Rep. L. Drolet)
271	5894		Yes	22-Jul	7/23	7/23/04	<b>Construction</b> ; mechanical contracting; process for issuance of certain licenses; clarify time periods for issuance and expand to include discount and refund language. (Rep. J. Stakoe)
272	5896		Yes	22-Jul	7/23	7/23/04	<b>Gaming</b> ; lottery; time limits for issuance of licenses and penalties for failure to comply; enact. (Rep. S. Taub)
273	5897		Yes	22-Jul	7/23	7/23/04	<b>Agriculture</b> ; plants; process for issuance of certain licenses; clarify and expand to include discount and refund language. (Rep. T. Casperson)
274	5899		Yes	22-Jul	7/23	7/23/04	<b>Trade</b> ; other; process for issuance of grain dealer licenses; revise requirements for processing of applications. (Rep. D. Farhat)

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275	5900		Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; electricians; process for issuance of certain contractor licenses; clarify time periods for issuance and expand to include discount and refund language. (Rep. D. Robertson)
276	5887		Yes	22-Jul	7/23	7/23/04	<b>Occupations</b> ; forensic polygraph examiners; process for issuance of certain licenses; clarify time periods for issuance and expand to include discount and refund language. (Rep. D. Acciavatti)
277		1208	Yes	22-Jul	7/23	7/23/04	<b>Agriculture</b> ; agribusiness; process for issuance of certain permits and licenses involving grade A milk; clarify time periods for issuance and expand to include discount and refund language. (Sen. T. Stamas)
278		1209	Yes	22-Jul	7/23	7/23/04	<b>Transportation</b> ; other; process for issuance of certain permits and licenses; clarify and expand to include discount and refund language. (Sen. R. Jelinek)
279		1211	Yes	22-Jul	7/23	7/23/04	<b>Agriculture</b> ; animals; process for issuance of licenses involving livestock dealers, brokers, or agents; clarify time periods for issuance and expand to include discount and refund language. (Sen. G. Van Woerkom)
280		1214	Yes	22-Jul	7/23	7/23/04	<b>Agriculture</b> ; animals; process for issuance of pet shop licenses; clarify time periods for issuance and expand to include discount and refund language. (Sen. N. Cassis)

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281		1215	Yes	22-Jul	7/23	7/23/04 #	<b>Human services</b> ; adult foster care; process for issuance of certain permits and licenses; clarify and expand to include discount and refund language. ( <b>Sen. B. Hammerstrom</b> )
282	5884		Yes	22-Jul	7/23	7/23/04	<b>Agriculture</b> ; agribusiness; process for issuance of certain permits and licenses under the manufacturing milk law of 2000; clarify time periods for issuance and expand to include discount and refund language. ( <b>Rep. J. Hune</b> )
283	5888		Yes	22-Jul	7/23	7/23/04	<b>Trade</b> ; vehicles; process for issuance of licenses under motor vehicle sales finance act; revise. ( <b>Rep. P. LaJoy</b> )
284	5895		Yes	22-Jul	7/23	7/23/04	<b>Health facilities</b> ; licensing; process for issuance of certain licenses; clarify and expand to include discount and refund language. ( <b>Rep. W. Huizenga</b> )
285	5882		Yes	22-Jul	7/23	7/23/04 #	<b>Human services</b> ; adult foster care; process for issuance of certain permits and licenses; allow refund. ( <b>Rep. G. Newell</b> )
286	5990		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; school; school district election coordinator; prohibit certain delegation of duties. ( <b>Rep. F. Sheen</b> )
287	5991		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; local; consolidation of precincts; permit by local clerk when conducting school and local elections at same time. ( <b>Rep. C. DeRoche</b> )
288	5992		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; school; school board member; require written acceptance of office. ( <b>Rep. C. Ward</b> )

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289	5993		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; school; vacancy in office; require notification to school district election coordinator of person appointed to fill vacancy. (Rep. J. Stahl)
290	5995		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; local; village offices; provide for filing with township clerk under certain circumstances. (Rep. W. Huizenga)
291	5996		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; local; village offices; require township clerk to transfer registration information to village clerk. (Rep. J. Hoogendyk)
292	5997		Yes	23-Jul	7/23	9/1/04	<b>Elections</b> ; local; general amendments regarding scheduling; provide for. (Rep. D. Hart)
293	5998		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; scheduling; extension of office where election date is changed; provide for. (Rep. R. Ann Jamnick)
294	5999		Yes	23-Jul	7/23	9/1/04	<b>Elections</b> ; local; optional change in election date for local units; revise city option and provide for village option. (Rep. J. Hune)
295	6000		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; ballots; voting on ballot questions; provide for technical amendment. (Rep. F. Accavitti)
296	6001		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; precinct boundaries; population of precincts for consolidation of precincts; limit. (Rep. M. Milosch)
297	6002		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; ballots; order of position on nonpartisan ballot; provide for. (Rep. D. Palsrok)

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298	6003		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; recall; filling of vacancy in case of school board member; provide for filing petition with school district election coordinator. <b>(Rep. S. Hummel)</b>
299	6004		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; local; election consolidation; provide for home rule village elections. <b>(Rep. B. Palmer)</b>
300	6005		Yes	23-Jul	7/23	7/23/04	<b>Elections</b> ; local; election consolidation; provide for general law village elections. <b>(Rep. J. Kooiman)</b>
301	5653		Yes	23-Jul	7/23	7/23/04	<b>Sales tax</b> ; exemptions; automobile provided to a qualified recipient by a qualified charitable organization; provide for. <b>(Rep. M. Nofs)</b>
302	5463		Yes	23-Jul	7/23	7/23/04 #	<b>Single business tax</b> ; credit; tax credit for donation of an automobile to a qualified charitable organization; provide for. <b>(Rep. D. Robertson)</b>
303	4508		Yes	6-Aug	8/10	8/10/04	<b>Education</b> ; school districts; alternative governance structures for first class school districts; provide for and provide for election on which structure to adopt. <b>(Rep. B. McConico)</b>
304		1260	Yes	11-Aug	8/11	1/1/05 #	<b>Criminal procedure</b> ; sentencing guidelines; sentencing guidelines for false or fraudulent filing of financial statement; enact. <b>(Sen. A. Sanborn)</b>
305	5198		Yes	11-Aug	8/11	8/11/04	<b>Civil rights</b> ; open meetings; disclosure of certain information in minutes of public body; prohibit to avoid violation of family educational rights and privacy act. <b>(Rep. M. Nofs)</b>

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306	4612		Yes	17-Aug	8/17	9/1/04	<b>Gaming</b> ; casinos; tax on adjusted gross receipts; increase, and allow simulcasting of horse races at casinos under certain circumstances. <b>(Rep. R. Brown)</b>
307	5446		Yes	17-Aug	8/17	8/17/04	<b>Counties</b> ; boards and commissions; membership on the local planning commission; require 1 member be from a school district within the county. <b>(Rep. C. Ward)</b>
308	5664		Yes	17-Aug	8/17	1/1/05	<b>Occupations</b> ; sanitarians; adoption of national credentialing standards for qualification for registration; allow and establish membership on an advisory committee. <b>(Rep. J. Stakoe)</b>
309		267	Yes	17-Aug	8/17	8/17/04 +	<b>Appropriations</b> ; zero budget; supplemental appropriation; provide for fiscal years 2003-2004 and 2004-2005. <b>(Sen. S. Johnson)</b>
310		874	Yes	27-Aug	27-Aug	1/1/05	<b>Property</b> ; conveyances; requirements for conveying certain property in Oakland county; revise. <b>(Sen. M. Bishop)</b>
311		927	Yes	27-Aug	27-Aug	8/27/04	<b>Natural resources</b> ; other; work group on game and fish program revenue; establish. <b>(Sen. M. McManus)</b>
312		1001	Yes	27-Aug	27-Aug	8/27/04 #	<b>Use tax</b> ; exemptions; automobile provided to a qualified recipient by a qualified charitable organization; provide for. <b>(Sen. B. Hardiman)</b>
313		1003	Yes	27-Aug	27-Aug	8/27/04 #	<b>Income tax</b> ; credit; tax credit for donation of an automobile to a qualified charitable organization; provide for. <b>(Sen. T. George)</b>
314		1051	Yes	27-Aug	27-Aug	9/1/04	<b>Probate</b> ; wills and estates; general amendments to the estates and protected individuals code; provide for. <b>(Sen. A. Cropsey)</b>

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+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
315		1228	Yes	27-Aug	27-Aug	10/1/07	<b>Children</b> ; child care; process for issuance of certain permits and licenses; clarify and expand to include discount and refund language. <b>(Sen. S. Thomas)</b>
316		1261	Yes	27-Aug	27-Aug	8/27/04	<b>Insurance</b> ; no-fault; report prepared by automobile theft prevention authority; eliminate state court administrative office from development of report. <b>(Sen. M. Bishop)</b>
317		1262	Yes	27-Aug	27-Aug	8/27/04	<b>Mental health</b> ; code; reference to "state court administrative office"; revise to "the appropriate court". <b>(Sen. B. Patterson)</b>
318		1263	Yes	27-Aug	27-Aug	8/27/04	<b>Criminal procedure</b> ; warrants; requirement to establish paper quality and durability standards for arrest warrants; eliminate. <b>(Sen. A. Sanborn)</b>
319		1274	Yes	27-Aug	27-Aug	8/27/04	<b>Single business tax</b> ; credit; percentage of compensation cost of credited jobs through 2009; provide for credit. <b>(Sen. C. Brown)</b>
320		1297	Yes	27-Aug	27-Aug	8/27/04	<b>Property</b> ; conveyances; conveyance of certain state owned property in Isabella county; provide for, and repeal certain acts and parts of acts. <b>(Sen. A. Cropsey)</b>
321		1302	Yes	27-Aug	27-Aug	8/27/04	<b>Economic development</b> ; other; start-up businesses in a technology park development; exempt for a certain period of time. <b>(Sen. B. Patterson)</b>
322		1303	Yes	27-Aug	27-Aug	8/27/04	<b>Taxation</b> ; utility users; start-up businesses; exempt from tax for certain tax years under certain circumstances. <b>(Sen. J. Gilbert)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
323		1304	Yes	27-Aug	27-Aug	8/27/04	<b>Economic development</b> ; plant rehabilitation; start-up businesses; exempt for certain period of time. <b>(Sen. P. Birkholz)</b>
324		1305	Yes	27-Aug	27-Aug	8/27/04	<b>Property tax</b> ; other; start-up businesses; exempt from tax under 1953 PA 189 for 5 years. <b>(Sen. V. Bernero)</b>
325	5876		Yes	9-Sep	10-Sep	9/10/04	<b>Environmental protection</b> ; other; issuance of permits; revise procedures and impose processing deadlines. <b>(Rep. F. Sheen)</b>
326		1124	Yes	10-Sep	10-Sep	9/10/04	<b>Property</b> ; conveyances; conveyance of state owned property in various counties; provide for. <b>(Sen. T. Stamas)</b>
327	5517		Yes	17-Sep	17-Sep	9/17/04 +	<b>Appropriations</b> ; general government; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
328		1252	Yes	22-Sep	23-Sep	9/23/04	<b>Civil procedure</b> ; costs and fees; payment for transcripts for certain appeals; increase. <b>(Sen. M. Switalski)</b>
329	6021		Yes	22-Sep	23-Sep	9/23/04	<b>Health</b> ; pharmaceuticals; reuse and redispensing of certain dispensed prescription drugs; allow under certain circumstances. <b>(Rep. M. Pumford)</b>
330	4742		Yes	22-Sep	23-Sep	9/23/04	<b>Courts</b> ; funding; payment of minimum state cost as a condition of probation; require. <b>(Rep. C. LaSata)</b>
331	5820		Yes	22-Sep	23-Sep	11/1/04	<b>Crimes</b> ; penalties; penalties for reckless driving; increase. <b>(Rep. A. Lipsey)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
332	5846		Yes	22-Sep	23-Sep	9/23/04	<b>Criminal procedure</b> ; bail; certain procedures regarding forfeiture of bail in criminal cases; revise. (Rep. J. Stakoe)
333		722	Yes	22-Sep	23-Sep	9/23/04 #	<b>Environmental protection</b> ; pollution prevention; loans for pollution prevention projects; expand eligibility criteria for certain small businesses. (Sen. L. Brater)
334		723	Yes	22-Sep	23-Sep	9/23/04 #	<b>Environmental protection</b> ; pollution prevention; small business pollution prevention assistance revolving loan fund; revise eligibility criteria. (Sen. R. Basham)
335	5798		Yes	22-Sep	23-Sep	9/23/04	<b>Income tax</b> ; home heating credit; refund requirement for certain energy bills; revise. (Rep. J. Rivet)
336	5801		Yes	22-Sep	23-Sep	9/23/04	<b>Highways</b> ; bridges; penalties for failure to pay toll when crossing Mackinac bridge; provide for. (Rep. S. Shackleton)
337		885	Yes	22-Sep	23-Sep	9/23/04	<b>School aid</b> ; categoricals; evaluation tool requirements for intermediate district preschool grants; eliminate. (Sen. C. Brown)
338		1328	Yes	22-Sep	23-Sep	9/23/04	<b>Crimes</b> ; weapons; possession and use of certain weapons by law enforcement personnel; allow. (Sen. A. Cropsey)

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
339	5520		Yes	28-Sep	28-Sep	9/28/04	<b>Appropriations;</b> judiciary; judiciary; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
340	5519		Yes	28-Sep	28-Sep	9/28/04 +	<b>Appropriations;</b> history, arts, and libraries; department of history, arts, and libraries; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
341	5522		Yes	28-Sep	28-Sep	9/28/04	<b>Appropriations;</b> military affairs; department of military affairs; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
342		1349	Yes	28-Sep	28-Sep	9/28/04	<b>Agriculture;</b> other; certain loans to farmer-owned sugar beet cooperatives; modify under certain circumstances. <b>(Sen. J. Barcia)</b>
343		1244	Yes	29-Sep	29-Sep	9/29/04	<b>Probate;</b> powers of attorney; appointment of a personal representative for disposition of a body when decedent has no assets or no known family members; allow. <b>(Sen. A. Cropsey)</b>
344	5516		Yes	28-Sep	29-Sep	9/29/04	<b>Appropriations;</b> family independence agency; family independence agency; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
345		1064	Yes	28-Sep	29-Sep	9/29/04	<b>Appropriations;</b> corrections; department of corrections; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>
346		1065	Yes	28-Sep	29-Sep	9/29/04	<b>Appropriations;</b> education; department of education; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
347		1068	Yes	28-Sep	29-Sep	9/29/04	<b>Appropriations</b> ; natural resources; department of natural resources; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>
348	5526		Yes	28-Sep	29-Sep	9/29/04	<b>Appropriations</b> ; state police; department of state police; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
349		1063	Yes	28-Sep	29-Sep	9/29/04 +	<b>Appropriations</b> ; community health; department of community health; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>
350		1066	Yes	28-Sep	30-Sep	9/30/04 +	<b>Appropriations</b> ; environmental quality; department of environmental quality; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>
351		1069	Yes	30-Sep	30-Sep	9/30/04	<b>Appropriations</b> ; school aid; fiscal year appropriations; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>
352		1067	Yes	30-Sep	30-Sep	9/30/04	<b>Appropriations</b> ; higher education; higher education; provide for fiscal year 2004-2005. <b>(Sen. S. Johnson)</b>
353	5509		Yes	30-Sep	30-Sep	9/30/04	<b>Appropriations</b> ; agriculture; department of agriculture; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
354	5521		Yes	30-Sep	30-Sep	9/30/04	<b>Appropriations</b> ; career development; department of labor and economic growth; provide for fiscal year 2004-2005. <b>(Rep. M. Shulman)</b>
355		1104	Yes	30-Sep	30-Sep	9/30/04	<b>Taxation</b> ; revenue sharing; payments in lieu of taxes on state lands; revise calculation. <b>(Sen. S. Johnson)</b>

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
356		1111	Yes	30-Sep	30-Sep	9/30/04	<b>Taxation</b> ; revenue sharing; payments to counties; revise calculation. ( <b>Sen. M. Switalski</b> )
357		1112	Yes	30-Sep	30-Sep	9/30/04	<b>Property tax</b> ; payment and collection; summer levy of county allocated millages; provide for. ( <b>Sen. M. Switalski</b> )
358		1062	Yes	30-Sep	30-Sep	9/30/04	<b>Appropriations</b> ; community colleges; community and junior colleges; provide appropriations for fiscal years 2003-2004 and 2004-2005. ( <b>Sen. S. Johnson</b> )
359	5864		Yes	30-Sep	30-Sep	9/30/04	<b>Law enforcement</b> ; fingerprinting; sunset on fees for fingerprinting and criminal record check; revise. ( <b>Rep. M. Sak</b> )
360	5527		Yes	30-Sep	30-Sep	9/30/04	<b>Appropriations</b> ; supplemental; supplemental appropriations; provide for fiscal year 2004-2005. ( <b>Rep. M. Shulman</b> )
361	5528		Yes	30-Sep	30-Sep	9/30/04 +	<b>Appropriations</b> ; transportation; department of transportation; provide for fiscal year 2004- <b>2005</b> . ( <b>Rep. M. Shulman</b> )
362	5802		Yes	4-Oct	4-Oct	10/4/04	<b>Traffic control</b> ; driver license; driver license provisions; revise and make related amendments. ( <b>Rep. G. DeRossett</b> )
363		1269	Yes	5-Oct	6-Oct	10/6/04	<b>Income tax</b> ; other; military family relief fund; create. ( <b>Sen. V. Garcia</b> )
364	5953		Yes	5-Oct	6-Oct	10/6/04 #	<b>Income tax</b> ; checkoff; funding for grants for certain reservists and National Guard individuals and families; provide for check-off option. ( <b>Rep. F. Sheen</b> )

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
365		774	Yes	7-Oct	7-Oct	10/7/04	<b>Economic development</b> ; local development financing; certified technology parks; revise deadline for designation. ( <b>Sen. V. Bernero</b> )
366	6208		Yes	7-Oct	7-Oct	10/7/04	<b>Property</b> ; conveyances; previous authorization to convey certain state owned property in Wayne county; revise. ( <b>Rep. C. Ward</b> )
367	5809		Yes	7-Oct	7-Oct	10/7/04	<b>Torts</b> ; liability; provisions of the common sense consumption act; enact. ( <b>Rep. D. Palsrok</b> )
368		1391	Yes	7-Oct	7-Oct	10/7/04	<b>Property</b> ; conveyances; transfer between state departments of certain state owned property in Ingham and Clinton counties; provide for. ( <b>Sen. C. Brown</b> )
369	5114		Yes	11-Oct	11-Oct	10/11/04	<b>Counties</b> ; boards and commissions; number of commissioners based on population category; limit. ( <b>Rep. M. Sak</b> )
370		1123	Yes	11-Oct	10/11	10/11/04	<b>Property</b> ; conveyances; conveyance of certain state owned property in Barry county; provide for. ( <b>Sen. P. Birkholz</b> )
371		1120	Yes	11-Oct	11-Oct	10/11/04	<b>Property</b> ; conveyances; certain state owned property in Mason county; provide for conveyance to the Mason county road commission. ( <b>Sen. G. Van Woerkom</b> )
372		1164	Yes	11-Oct	11-Oct	10/11/04	<b>Health facilities</b> ; nursing homes; payment for temporary absence of title 19 patients; clarify. ( <b>Sen. R. Emerson</b> )

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Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
373	5432		Yes	11-Oct	11-Oct	10/11/2004	<b>Occupations</b> ; individual licensing and regulation; waiver from license or registration certain requirements for individuals serving on active military duty; provide for. <b>(Rep. J. Koetje)</b>
374	4361		Yes	11-Oct	11-Oct	10/11/2004	<b>Insurance</b> ; health care corporations; coverage for nurse midwives; provide for. <b>(Rep. T. Reeves)</b>
375	4362		Yes	11-Oct	11-Oct	10/11/2004	<b>Insurance</b> ; health; coverage for nurse midwives; provide for. <b>(Rep. T. Reeves)</b>
376	5472		Yes	11-Oct	11-Oct	10/11/2004	<b>Family law</b> ; friend of the court; certain criteria for determining "interests of the child"; clarify. <b>(Rep. K. Bradstreet)</b>
377	5313		Yes	12-Oct	12-Oct	10/12/2004	<b>Natural resources</b> ; other; deed restrictions on certain property conveyed by state; provide for removal of and for distribution of proceeds upon subsequent conveyance. <b>(Rep. M. Pumford)</b>
378	5906		Yes	12-Oct	12-Oct	10/12/2004	<b>Law enforcement</b> ; other; law enforcement agencies; allow certain public bodies to create. <b>(Rep. W. Van Regenmorter)</b>
379	5907		Yes	12-Oct	12-Oct	10/12/04 #	<b>Law enforcement</b> ; other; jurisdiction of commission on law enforcement standards; extend. <b>(Rep. W. Van Regenmorter)</b>
380	5121		Yes	12-Oct	12-Oct	10/12/04 #	<b>Education</b> ; school districts; creation of law enforcement agency by certain large urban school districts; allow. <b>(Rep. T. Hunter)</b>

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381	5771		Yes	12-Oct	12-Oct	10/12/2004	<b>Environmental protection;</b> sewage; septage program fees; increase and revise regulation of land disposal of septage. <b>(Rep. R. Johnson)</b>
382	5772		Yes	12-Oct	12-Oct	10/12/04 #	<b>Environmental protection;</b> sewage; sentencing guidelines for crime of knowingly making false report in domestic septage licensing application; enact. <b>(Rep. R. Johnson)</b>
383		1323	Yes	12-Oct	12-Oct	10/12/2004	<b>Gaming;</b> lottery; advertising on lottery materials; allow. <b>(Sen. S. Johnson)</b>
384	5319		Yes	12-Oct	12-Oct	10/12/2004	<b>Transportation;</b> funds; distribution of certain revenue from tax levied; clarify. <b>(Rep. T. Casperson)</b>
385		1340	Yes	12-Oct	12-Oct	10/12/2004	<b>State;</b> escheats; certain unclaimed property by insurance companies subject to 2-year escheat period and notice provisions; modify. <b>(Sen. M. Switalski)</b>
386	6165		Yes	12-Oct	12-Oct	10/12/2004	<b>Economic development;</b> other; state convention facility development act; revise distribution of funds. <b>(Rep. C. Ward)</b>
387	5782		Yes	12-Oct	12-Oct	10/12/2004	<b>Income tax;</b> other; amendments to the Michigan education savings program act to incorporate federal options; provide for. <b>(Rep. G. DeRossett)</b>
388	5783		Yes	12-Oct	12-Oct	10/12/2004	<b>Higher education;</b> financial aid; Michigan education trust fund act; revise. <b>(Rep. G. DeRossett)</b>

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389	5340		Yes	12-Oct	12-Oct	10/12/2004	<b>Property</b> ; conveyances; prior conveyance of certain state owned property in Macomb county; revise usage requirements. (Rep. L. Drolet)
390	6074		Yes	12-Oct	12-Oct	10/12/04	<b>Environmental protection</b> ; underground storage tanks; environmental protection regulatory fee; eliminate sunset and provide for expenditure of the regulatory fee. (Rep. M. Shulman)
391	6227		Yes	12-Oct	13-Oct	10/13/04	<b>Property tax</b> ; limitation; property tax limitation act; revise election date for 2004. (Rep. D. Sheltrown)
392		1280	Yes	15-Oct	15-Oct	10/15/04	<b>Recreation</b> ; state parks; citizens committee for Michigan state parks; establish. (Sen. P. Birkholz)
393		1146	Yes	15-Oct	15-Oct	10/15/04	<b>Health</b> ; code; sunset for quality assurance assessment on hospitals; extend. (Sen. R. Emerson)
394	5534		Yes	15-Oct	15-Oct	10/15/04	<b>Income tax</b> ; credit; contributions after a withdrawal from a Michigan education savings account; allow and clarify calculation of deduction. (Rep. G. DeRossett)
395		1281	Yes	15-Oct	15-Oct	10/15/04	<b>Recreation</b> ; state parks; gem of the parks award, state park volunteer of the year award, and state park employee of the year award; create. (Sen. T. Stamas)

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396		1206	Yes	15-Oct	15-Oct	10/15/04	<b>Economic development</b> ; enterprise zones; housing inspection ordinance provision; revise. ( <b>Sen. G. Van Woerkom</b> )
397	4766		Yes	15-Oct	15-Oct	4/15/05	<b>Health facilities</b> ; homes for the aged; emergency generator system; require as condition of licensure. ( <b>Rep. J. Pastor</b> )
398		1396	Yes	15-Oct	15-Oct	10/15/04	<b>Economic development</b> ; Michigan economic growth authority; eligibility for credit; revise. ( <b>Sen. V. Garcia</b> )
399	6231		Yes	15-Oct	15-Oct	10/15/04	<b>Education</b> ; examinations; timing of high school MEAP test; revise in school code. ( <b>Rep. B. Palmer</b> )
400	5118		Yes	10/20	10/20	10/20/04 #	<b>Health</b> ; blood; duties of the childhood lead poisoning prevention and control commission; provide for. ( <b>Rep. C. Kolb</b> )
401	5874		Yes	10/20	10/20	10/20/04	<b>Records</b> ; dental; written consent of patient required for disclosure of information related to the treatment; eliminate and require compliance with HIPAA. ( <b>Rep. J. Kooiman</b> )
402		1149	Yes	11/12	11/15	11/15/04	<b>Veterans</b> ; other; commemoration date for United States armed forces; provide for. ( <b>Sen. V. Garcia</b> )
403	4335		Yes	11/19	11/22	2/20/05 #	<b>Occupations</b> ; athletics; recodification of boxing statutes; provide for. ( <b>Rep. D. Robertson</b> )
404	4336		Yes	11/19	11/22	2/20/05 #	<b>Occupations</b> ; athletics; certain unarmed combat contests; exempt from penal code. ( <b>Rep. D. Robertson</b> )

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405	6047		Yes	11/19	11/22	11/22/04	<b>Land use</b> ; planning; exclusionary zoning; define in context of joint planning. (Rep. C. Ward)
406		928	Yes	11/29	11/29	11/29/04	<b>Townships</b> ; charter; posting of township board notices, ordinances, and proceedings; allow to post on website and township hall. (Sen. T. George)
407	4458		Yes	11/29	11/29	11/29/04	<b>Liquor</b> ; retail sales; sale above the minimum retail selling price; allow. (Rep. S. Rocca)
408	4703		Yes	11/29	11/29	11/29/04	<b>Health</b> ; code; campgrounds and public swimming pools licensing requirements and fees; revise. (Rep. G. Whitmer)
409	5414		Yes	11/29	11/29	11/29/04	<b>Human services</b> ; medical services; notification to state regarding certain lawsuits; require. (Rep. M. Shulman)
410	5947		Yes	11/29	11/29	11/29/04 #	<b>Health</b> ; pharmaceuticals; health care false claims act; exempt certain rebates from medical supply companies to consumers. (Rep. B. Palmer)
411	5970		Yes	11/29	11/29	11/29/04 #	<b>Health</b> ; pharmaceuticals; health care false claims act; exempt certain rebates from drug companies to consumers. (Rep. G. Newell)
412	5457		Yes	11/29	11/29	7/1/06	<b>Education</b> ; intermediate school districts; random financial audits of intermediate school districts; require department of treasury to conduct. (Rep. B. Palmer)

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413	5475		Yes	11/29	11/29	7/1/06 #	<b>Education</b> ; intermediate school districts; internet accessible database regarding certain intermediate school district expenditures; require. <b>(Rep. K. Bradstreet)</b>
414	5627		Yes	11/29	11/29	1/1/05 #	<b>Education</b> ; intermediate school districts; certain information to be included in annual financial report; require. <b>(Rep. R. Johnson)</b>
415	5839		Yes	11/29	11/29	11/29/04	<b>Education</b> ; intermediate school districts; uses for special education and vocational education bond proceeds and millages; clarify and limit duration of intermediate school district millages. <b>(Rep. R. Johnson)</b>
416	5843		Yes	11/29	11/29	11/29/04	<b>Townships</b> ; public services; police authority; allow township to enter into more than 1 under certain circumstances. <b>(Rep. P. LaJoy)</b>
417	5850		No	11/29	11/29	**	<b>Education</b> ; school districts; certain penalties for misuse of certain school district or intermediate school district funds; provide for. <b>(Rep. R. Johnson)</b>
418	5851		No	11/29	11/29	** #	<b>Criminal procedure</b> ; sentencing guidelines; sentencing guidelines for crimes of failing to comply with school competitive bidding process and improper use of school bond proceeds; enact. <b>(Rep. R. Johnson)</b>

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+ - Line item veto

# - Tie bar



Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
419	5921		Yes	11/29	11/29	11/29/04	<b>Education</b> ; intermediate school districts; conflict of interest policy for intermediate school district officials and employees; require, prohibit member of constituent district board from serving on intermediate school board, and allow certain changes to composition of intermediate school boards. <b>(Rep. R. Johnson)</b>
420	4358		Yes	11/29	11/29	1/1/06	<b>Vehicles</b> ; trucks; length limit; increase to 65 feet for certain trucks, revise fines for misloaded trucks, and clarify procedures for weighing trucks with lift axles. <b>(Rep. G. DeRossett)</b>
421	5529		Yes	12/9	12/9	12/9/04	<b>Property</b> ; conveyances; certain state owned property in Ingham county and Kent county; provide for conveyances. <b>(Rep. M. Murphy)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
Veto	4160					5/7/04	<b>Labor</b> ; hours and wages; future living wage ordinances; prohibit. <b>(Rep. F. Sheen)</b>
Veto	4463					3/5/04	<b>Vehicles</b> ; license plates; fund-raising plate for cancer awareness; create. <b>(Rep. D. Robertson)</b>
Veto	4478					2/6/04	<b>Family law</b> ; parental rights; process for judicial waiver of parental consent requirement; clarify. <b>(Rep. W. O'Neil)</b>
Veto	4693					2/20/04	<b>Education</b> ; other; educational flexibility and empowerment contracts waiving certain statutory and administrative requirements as part of performance contract; allow. <b>(Rep. B. Palmer)</b>
Veto	4702					4/15/04	<b>Property tax</b> ; assessments; sale of certain agricultural property; exclude from sales ratio studies under certain circumstances. <b>(Rep. B. Caswell)</b>
Veto	4720					4/7/04	<b>State; purchasing</b> ; cooperative purchasing program between public schools and the department of management and budget; create. <b>(Rep. P. LaJoy)</b>
Veto	4722					4/7/04	<b>Education</b> ; financing; inapplicability of certain requirements for school district purchasing if school district makes purchase through cooperative program with state; provide for. <b>(Rep. J. Moolenaar)</b>
Veto	4724					2/20/04	<b>School aid</b> ; other; school aid requirements; make subject to educational flexibility and empowerment contracts. <b>(Rep. J. Emmons)</b>

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\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
Veto	5113					10/11/04	<b>Counties</b> ; charter; number of commissioners based on population category; limit. (Rep. J. Kooiman)
Veto	5190					4/7/04	<b>State agencies (existing)</b> ; generally; consolidation of state agencies' human resources departments; provide for. (Rep. P. LaJoy)
Veto	5335					5/28/04	<b>Economic development</b> ; enterprise zones; start-up businesses in neighborhood enterprise zone; exempt for certain period of time. (Rep. J. Stakoe)
Veto	5341					5/28/04	<b>Property tax</b> ; exemptions; start-up businesses; exempt from taxes for 5 years if approved by local governmental unit. (Rep. M. Milosch)
Veto	5342					5/28/04	<b>Economic development</b> ; enterprise zones; start-up businesses in an enterprise zone; exempt for a certain period of time. (Rep. G. Steil)
Veto	5343					5/28/04	<b>Economic development</b> ; obsolete property; start-up businesses; exempt for a certain period of time. (Rep. S. Hummel)
Veto	5345					5/28/04	<b>Income tax</b> ; city; start-up business; credit for certain tax years under certain circumstances. (Rep. D. Farhat)
Veto	5434					3/29/04	<b>Income tax</b> ; forms; requirement for electronic filing of tax returns; prohibit for 1 year. (Rep. S. Taub)
Veto	5440					3/29/04	<b>Single business tax</b> ; forms; requirement for tax preparers to submit tax returns by E-filing; prohibit for 1 year. (Rep. J. Emmons)

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\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
Veto	5479					4/7/04	<b>Courts</b> ; district court; additional district judgeship in Mecosta-Osceola district; provide for and create election divisions. <b>(Rep. J. Howell)</b>
Veto	5480					4/7/04	<b>Courts</b> ; circuit court; additional circuit judgeship in Clare-Gladwin circuit; provide for. <b>(Rep. J. Howell)</b>
Veto		145				10/15/04	<b>Highways</b> ; construction and repair; closing a road that services another community; allow for hearing. <b>(Sen. M. Bishop)</b>
Veto		320				6/28/04	<b>Labor</b> ; youth employment; youth employment standards; revise maximum number of hours a minor may work. <b>(Sen. T. Stamas)</b>
Veto		474				1/9/04	<b>Financial institutions</b> ; other; regulation and licensing of deferred presentment service providers and transactions; provide for. <b>(Sen. V. Garcia)</b>
Veto		647				6/8/04	<b>Labor</b> ; health and safety; definition of "wilful" MIOSHA violation; provide for and clarify procedure for obtaining interview statements during an inspection. <b>(Sen. B. Patterson)</b>
Veto		785				3/5/04	<b>Vehicles</b> ; license plates; procedures to establish and issue fund-raising plates; revise. <b>(Sen. B. Patterson)</b>
Veto		788				4/7/04	<b>Courts</b> ; judges; number of judgeships in the seventeenth judicial circuit; increase. <b>(Sen. B. Hardiman)</b>

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# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
Veto		829				4/7/04	<b>Courts</b> ; circuit court; sixteenth judicial circuit; allow additional judgeship. ( <b>Sen. A. Sanborn</b> )
Veto		841				4/12/04	<b>Economic development</b> ; other; manufacturing czar; create. ( <b>Sen. W. Kuipers</b> )
Veto		863				5/28/04	<b>Income tax</b> ; exemptions; start-up business; credit for certain tax years under certain circumstances. ( <b>Sen. B. Hardiman</b> )
Veto		865				5/28/04	<b>Property tax</b> ; other; start-up businesses; exempt from tax under 1953 PA 189 for 5 years if approved by local governmental unit. ( <b>Sen. V. Bernero</b> )
Veto		867				5/28/04	<b>Taxation</b> ; specific property; start-up businesses in commercial forests; exempt for a certain period of time. ( <b>Sen. G. Van Woerkom</b> )
Veto		869				5/28/04	<b>Economic development</b> ; plant rehabilitation; start-up businesses; exempt for certain period of time. ( <b>Sen. P. Birkholz</b> )
Veto		872				5/28/04	<b>Economic development</b> ; other; start-up businesses in a technology park development; exempt for a certain period of time. ( <b>Sen. B. Patterson</b> )
Veto		875				5/28/04	<b>Taxation</b> ; utility users; start-up businesses; exempt from tax for certain tax years under certain circumstances. ( <b>Sen. J. Gilbert</b> )
Veto		953				11/19/04	<b>State</b> ; funds; loans to certain farmers for qualified agricultural energy production; provide for. ( <b>Sen. C. Brown</b> )

\* - I.E. means Legislature voted to give the Act immediate effect.

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\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
Veto		1093				5/18/04	<b>Single business tax</b> ; credit; percentage of compensation cost of credited jobs through 2009; provide for credit. ( <b>Sen. C. Brown</b> )
Veto		1279				10/15/04	<b>Income tax</b> ; checkoff; Michigan state park endowment fund; provide for check-off option. ( <b>Sen. J. Allen</b> )

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\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2004 SESSION)**

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*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(i) Other official information considered necessary or appropriate by the office of regulatory reform.”*

*The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

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**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2004 RULE FILINGS)**

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R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue
38.1205	*	1	229.2267	R	11	229.2323	A	11
229.2201	R	11	229.2268	R	11	229.2324	A	11
229.2205	R	11	229.2271	R	11	229.2325	A	11
229.2207	R	11	229.2272	R	11	229.2326	A	11
229.2211	R	11	229.2273	R	11	229.2327	A	11
229.2212	R	11	229.2281	R	11	229.2328	A	11
229.2213	R	11	229.2282	R	11	229.2329	A	11
229.2215	R	11	229.2283	R	11	229.2330	A	11
229.2216	R	11	229.2285	R	11	229.2331	A	11
229.2221	R	11	229.2287	R	11	229.2332	A	11
229.2222	R	11	229.2291	R	11	229.2333	A	11
229.2223	R	11	229.2292	R	11	229.2334	A	11
229.2225	R	11	229.2293	R	11	229.2335	A	11
229.2227	R	11	229.2294	R	11	229.2336	A	11
229.2228	R	11	229.2295	R	11	229.2337	A	11
229.2229	R	11	229.2296	R	11	229.2341	A	11
229.2231	R	11	229.2297	R	11	229.2351	A	11
229.2235	R	11	229.2298	R	11	229.2352	A	11
229.2241	R	11	229.2301	A	11	229.2353	A	11
229.2242	R	11	229.2302	A	11	229.2354	A	11
229.2244	R	11	229.2303	A	11	229.2355	A	11
229.2246	R	11	229.2304	A	11	229.2356	A	11
229.2247	R	11	229.2305	A	11	229.2357	A	11
229.2248	R	11	229.2309	A	11	229.2358	A	11
229.2249	R	11	229.2311	A	11	229.2359	A	11
229.2251	R	11	229.2312	A	11	229.2360	A	11
229.2252	R	11	229.2313	A	11	229.2361	A	11
229.2253	R	11	229.2314	A	11	229.2362	A	11
229.2254	R	11	229.2315	A	11	229.2363	A	11
229.2255	R	11	229.2316	A	11	229.2364	A	11
229.2256	R	11	229.2317	A	11	229.2365	A	11
229.2257	R	11	229.2318	A	11	229.2366	A	11
229.2261	R	11	229.2319	A	11	229.2367	A	11
229.2262	R	11	229.2320	A	11	229.2368	A	11
229.2265	R	11	229.2321	A	11	229.2369	A	11
229.2266	R	11	229.2322	A	11	229.2370	A	11

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue
229.2371	A	11	229.2433	A	11	229.2476	A	11
229.2372	A	11	229.2434	A	11	229.2477	A	11
229.2381	A	11	229.2435	A	11	229.2478	A	11
229.2382	A	11	229.2436	A	11	229.2479	A	11
229.2383	A	11	229.2437	A	11	229.2480	A	11
229.2384	A	11	229.2438	A	11	229.2481	A	11
229.2385	A	11	229.2439	A	11	229.2482	A	11
229.2391	A	11	229.2440	A	11	229.2483	A	11
229.2392	A	11	229.2441	A	11	229.2484	A	11
229.2393	A	11	229.2442	A	11	229.2485	A	11
229.2394	A	11	229.2443	A	11	229.2486	A	11
229.2395	A	11	229.2444	A	11	229.2487	A	11
229.2396	A	11	229.2445	A	11	229.2488	A	11
229.2397	A	11	229.2446	A	11	229.2489	A	11
229.2398	A	11	229.2447	A	11	229.2490	A	11
229.2399	A	11	229.2448	A	11	229.2491	A	11
229.2401	A	11	229.2449	A	11	229.2501	A	11
229.2402	A	11	229.2450	A	11	229.2502	A	11
229.2403	A	11	229.2451	A	11	229.2503	A	11
229.2404	A	11	229.2452	A	11	229.2504	A	11
229.2405	A	11	229.2453	A	11	229.2505	A	11
229.2406	A	11	229.2454	A	11	229.2506	A	11
229.2407	A	11	229.2455	A	11	229.2507	A	11
229.2408	A	11	229.2456	A	11	229.2508	A	11
229.2411	A	11	229.2457	A	11	229.2509	A	11
229.2412	A	11	229.2458	A	11	229.2510	A	11
229.2413	A	11	229.2459	A	11	229.2511	A	11
229.2414	A	11	229.2460	A	11	229.2512	A	11
229.2415	A	11	229.2461	A	11	229.2521	A	11
229.2416	A	11	229.2462	A	11	229.2522	A	11
229.2421	A	11	229.2463	A	11	229.2531	A	11
229.2422	A	11	229.2471	A	11	281.101	A	24
229.2423	A	11	229.2472	A	11	281.102	A	24
229.2424	A	11	229.2473	A	11	281.103	A	24
229.2431	A	11	229.2474	A	11	281.104	A	24
229.2432	A	11	229.2475	A	11	281.105	A	24

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue
281.106	A	24	285.823.1	N	16	299.9823	A	24
281.107	A	24	285.823.1a	N	16	299.9826	*	24
281.108	A	24	285.823.2	N	16	299.11001	*	24
281.109	A	24	285.823.3	N	16	299.11002	*	24
281.110	A	24	285.823.4	N	16	299.11003	*	24
281.111	A	24	285.823.5	N	16	299.11004	*	24
281.112	A	24	285.823.5a	N	16	299.11005	*	24
281.113	A	24	285.823.6	N	16	299.11006	*	24
281.114	A	24	285.823.7	N	16	299.11007	*	24
281.171	A	24	299.922	*	24	299.11008	*	24
281.172	A	24	299.9502	*	24	325.1878	R	12
281.173	A	24	299.9504	*	24	325.1879	R	12
281.174	A	24	299.9514	*	24	325.1880	R	12
281.175	A	24	299.9519	*	24	325.1881	R	12
281.176	A	24	299.9601	*	24	325.1882	R	12
281.177	A	24	299.9607	*	24	325.1883	R	12
281.178	A	24	299.9608	*	24	325.1884	R	12
281.179	A	24	299.9610	*	24	325.1885	R	12
281.180	A	24	299.9614	*	24	325.1886	R	12
281.181	A	24	299.9619	*	24	325.1887	R	12
281.182	A	24	299.9623	*	24	325.1888	R	12
281.183	A	24	299.9624	R	24	325.1889	R	12
281.184	A	24	299.9625	R	24	325.1890	R	12
285.817.2	*	16	299.9626	R	24	325.1891	R	12
285.817.3	*	16	299.9629	*	24	325.1901	A	12
285.817.4	*	16	299.9635	*	24	325.1911	A	12
285.817.5	*	16	299.9639	A	24	325.1912	A	12
285.817.5a	A	16	299.9640	A	24	325.1913	A	12
285.817.6	*	16	299.9703	*	24	325.1914	A	12
285.817.7	*	16	299.9706	*	24	325.1915	A	12
285.820.1	*	15	299.9801	*	24	325.1916	A	12
285.820.1a	A	15	299.9808	*	24	325.1917	A	12
285.820.2	*	15	299.9809	*	24	325.1921	A	12
285.820.3	*	15	299.9815	*	24	325.1922	A	12
285.820.4	*	15	299.9819	*	24	325.1923	A	12
285.820.6	*	15	299.9822	A	24	325.1924	A	12

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue
325.1931	A	12	325.3273	*	8	325.17307	*	6
325.1932	A	12	325.3274	*	8	325.17308	*	6
325.1933	A	12	325.3275	*	8	325.17309	R	6
325.1934	A	12	325.9050	A	14	325.17401	*	6
325.1935	A	12	325.9051	*	14	325.17402	*	6
325.1941	A	12	325.9052	*	14	325.17403	*	6
325.1942	A	12	325.13091	*	10	325.17404	*	6
325.1943	A	12	325.13092	*	10	325.17405	*	6
325.1944	A	12	325.13094	*	10	325.17406	*	6
325.1951	A	12	325.17101	*	6	325.17407	R	6
325.1952	A	12	325.17102	*	6	325.17408	R	6
325.1953	A	12	325.17103	*	6	325.17409	R	6
325.1954	A	12	325.17104	*	6	325.17501	*	6
325.1961	A	12	325.17105	R	6	325.17502	R	6
325.1962	A	12	325.17106	*	6	325.17503	*	6
325.1963	A	12	325.17107	*	6	325.17504	*	6
325.1964	A	12	325.17108	R	6	325.17505	*	6
325.1965	A	12	325.17109	*	6	325.17506	*	6
325.1966	A	12	325.17201	R	6	325.17507	R	6
325.1967	A	12	325.17202	*	6	325.17508	R	6
325.1968	A	12	325.17203	*	6	325.17509	*	6
325.1969	A	12	325.17203a	A	6	325.17510	*	6
325.1970	A	12	325.17204	*	6	325.17701	*	6
325.1971	A	12	325.17205	*	6	325.17702	R	6
325.1972	A	12	325.17206	R	6	325.17703	R	6
325.1973	A	12	325.17207	*	6	325.17704	R	6
325.1974	A	12	325.17208	*	6	325.17705	*	6
325.1975	A	12	325.17209	*	6	325.17706	*	6
325.1976	A	12	325.17210	*	6	325.17707	R	6
325.1977	A	12	325.17211	A	6	325.17708	R	6
325.1978	A	12	325.17301	*	6	325.17709	*	6
325.1979	A	12	325.17302	*	6	325.17710	R	6
325.1980	A	12	325.17303	*	6	325.17711	R	6
325.1981	A	12	325.17304	*	6	325.17712	R	6
325.3271	*	8	325.17305	*	6	325.17713	A	6
325.3272	*	8	325.17306	*	6	325.17714	A	6

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue	R Number	Action	2004 MR Issue
325.17901	*	6	325.22131	A	10	325.22184	A	10
325.17902	*	6	325.22132	A	10	325.22185	A	10
325.17903	*	6	325.22133	A	10	325.22186	A	10
325.17904	*	6	325.22134	A	10	325.22187	A	10
325.17905	*	6	325.22135	A	10	325.22188	A	10
325.17906	*	6	325.22136	A	10	325.22189	A	10
325.18001	R	6	325.22137	A	10	325.22190	A	10
325.18003	R	6	325.22138	A	10	325.22192	A	10
325.18004	R	6	325.22141	A	10	325.22193	A	10
325.18005	R	6	325.22142	A	10	325.22194	A	10
325.18006	R	6	325.22143	A	10	325.22195	A	10
325.18101	R	6	325.22144	A	10	325.22201	A	10
325.18102	R	6	325.22145	A	10	325.22202	A	10
325.18103	R	6	325.22146	A	10	325.22203	A	10
325.18104	R	6	325.22151	A	10	325.22204	A	10
325.22101	A	10	325.22152	A	10	325.22205	A	10
325.22102	A	10	325.22153	A	10	325.22206	A	10
325.22103	A	10	325.22154	A	10	325.22207	A	10
325.22104	A	10	325.22155	A	10	325.22208	A	10
325.22111	A	10	325.22156	A	10	325.22209	A	10
325.22112	A	10	325.22161	A	10	325.22210	A	10
325.22113	A	10	325.22162	A	10	325.22211	A	10
325.22114	A	10	325.22163	A	10	325.22212	A	10
325.22115	A	10	325.22164	A	10	325.22213	A	10
325.22116	A	10	325.22165	A	10	325.22214	A	10
325.22117	A	10	325.22166	A	10	325.22215	A	10
325.22118	A	10	325.22171	A	10	325.22216	A	10
325.22119	A	10	325.22172	A	10	325.22217	A	10
325.22120	A	10	325.22173	A	10	325.22301	A	10
325.22121	A	10	325.22174	A	10	325.22302	A	10
325.22122	A	10	325.22175	A	10	325.22311	A	10
325.22123	A	10	325.22176	A	10	325.22312	A	10
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325.22322	A	10	325.22363	A	10	325.23705	R	10
325.22323	A	10	325.23101	R	10	325.23706	R	10
325.22324	A	10	325.23102	R	10	325.23707	R	10
325.22325	A	10	325.23103	R	10	325.23801	R	10
325.22326	A	10	325.23104	R	10	325.23802	R	10
325.22327	A	10	325.23105	R	10	325.23803	R	10
325.22331	A	10	325.23106	R	10	325.23804	R	10
325.22332	A	10	325.23107	R	10	325.23805	R	10
325.22333	A	10	325.23201	R	10	325.23806	R	10
325.22334	A	10	325.23202	R	10	325.23807	R	10
325.22335	A	10	325.23203	R	10	325.23808	R	10
325.22336	A	10	325.23301	R	10	325.23901	R	10
325.22337	A	10	325.23302	R	10	325.23902	R	10
325.22338	A	10	325.23303	R	10	325.23903	R	10
325.22339	A	10	325.23304	R	10	325.23904	R	10
325.22340	A	10	325.23401	R	10	325.23905	R	10
325.22342	A	10	325.23402	R	10	325.23906	R	10
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325.22344	A	10	325.23404	R	10	325.24002	R	10
325.22346	A	10	325.23405	R	10	325.24003	R	10
325.22347	A	10	325.23406	R	10	325.24005	R	10
325.22348	A	10	325.23407	R	10	325.24006	R	10
325.22349	A	10	325.23501	R	10	325.24007	R	10
325.22350	A	10	325.23502	R	10	325.24008	R	10
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325.24115	R	10	390.907	N	4	393.31	A	12
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335.22341	A	10	390.1204	*	20	393.35	A	12
325.22345	A	10	390.1206	*	20	393.36	A	12
336.1802	*	10	393.1	A	12	393.37	A	12
336.1804	*	10	393.2	A	12	393.38	A	12
336.1811	*	10	393.3	A	12	393.39	A	12
338.2101	*	13	393.4	A	12	393.40	A	12
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(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

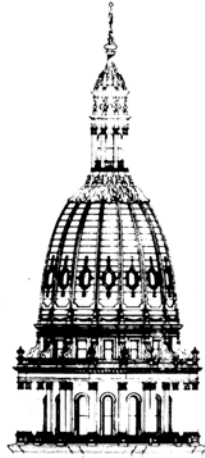
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393.101	R	12	408.30449	*	4	408.30546	A	4
393.102	R	12	408.30458	*	4	408.30547	A	4
393.103	R	12	408.30461	R	4	408.30801	*	4
393.104	R	12	408.30475	*	4	408.30807	*	4
393.105	R	12	408.30495a	R	4	408.30808	A	4
393.106	R	12	408.30499	*	4	408.30809	A	4
393.107	R	12	408.30503	*	4	408.30810	A	4
393.108	R	12	408.30505	*	4	408.30811	A	4
393.109	R	12	408.30506	*	4	408.30812	A	4
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393.111	R	12	408.30510	*	4	408.30814	A	4
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408.30401	*	4	408.30513	*	4	408.30817	*	4
408.30404	*	4	408.30514	*	4	408.30818	*	4
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408.30408	*	4	408.30517	R	4	408.30820	*	4
408.30409	*	4	408.30518	*	4	408.30822	*	4
408.30410	*	4	408.30519	*	4	408.30823	A	4
408.30411	*	4	408.30520	*	4	408.30824	*	4
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408.30418	A	4	408.30531	*	4	408.30835	*	4
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Office of Regulatory Reform

ORR Consultation pursuant to Paragraph 15 of Executive Reorganization Order E. R. O. 1995-5, MCL 10. 151 Notice of Public Hearing (2004-20)

Public School Employees' Retirement Board

General Rules, R 38.1101 - 38.1207 (2004-1)

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Fisheries Division

Pine River Natural River Zoning, R 281.101 - 281.114 (\*2004-10) (2004-024)

Upper Manistee River Natural River Zoning, R 281.171 - 281.184 (\*2004-10) (2004-024)

Notice of Public Hearing – (\*2004-10)

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Regulation of Lands Administered, R 299.921 - 299.933 (\*2004-14) (2004-024)

Notice of Public Hearing – (\*2004-14)

State Uniform Waterway Marking System, R 281.1101 - 281.1114 (\*2004-5) (2004-024)

Notice of Public Hearing – (\*2004-5)

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Forensic Science Division

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Correction to Obvious Error – (2004-5)

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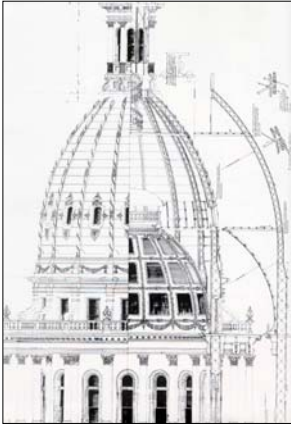
Michigan Higher Education Assistance Authority

Nursing Scholarship Rules, R 390.901 - 390.915 (2004-4)

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